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THE

SOLICITORS' JOURNAL

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CURRENT TOPICS

Reform of the Licensing Laws

WE welcome the Government's belated and tentative *ballon d'essai* on the law of drinking which Mr. BUTLER released for a brief flight last week. The present laws were passed to deal with a social evil which no longer exists but which has been replaced by other evils. As we remarked recently, being summoned should be something rather more than bad luck: in addition, it should involve something more than a mere technical irregularity. The licensing laws do not enlist the sympathy of the majority of the public and they should be recast in such a way as to be clearly designed to deal with actual or potential evils instead of being school rules to be avoided when no one is looking. We wish Mr. Butler every success and trust that he will not be perturbed by the volume rather than the quality of any criticism which he arouses.

The Earnings Rule

LESS than a year after the last amendments were made to the earnings rules, new draft National Insurance (Earnings) Regulations have been laid before Parliament and are due to come into operation on 21st March. The new regulations will raise by 10s., from £3 to £3 10s. a week, the net amount which retirement and widow pensioners can earn without reduction in their pension. For widowed mothers the net amount will be raised by £1, from £4 to £5 a week. As at present, sixpence will be deducted from the pension or allowance for each shilling of the first pound earned above these limits; thereafter one shilling will be deducted for each shilling earned. It is clear that adherence to the unpopular and widely discredited retirement principle is causing considerable administrative difficulties. To succeed in a claim to a retirement pension a male claimant between the ages of sixty-five and seventy, and a female between sixty and sixty-five, must satisfy the condition requiring retirement; in general this involves not being engaged in a gainful occupation for more than twelve hours a week, or a quarter of the hours normally worked in the occupation in question. Once a pensioner is seventy or sixty-five, he or she respectively may draw a full pension without being retired. The National Insurance Advisory Committee's Report on the draft regulations points out that with the weekly average earnings of women in full-time employment being of the order of £6 17s., many women can do a substantial amount of work and receive their full pension. With men, on the other hand, averaging some £13 3s. a week, an increase of 10s. in the maximum amount of free earnings will hardly prejudice the

CONTENTS

effectiveness of the earnings rule, because if a pensioner earned £6 10s. he would lose all his pension. No attempt has been made on this occasion to permit earnings to be averaged over a period to assist people carrying on seasonal work. The Advisory Committee is critical of the earnings limits being raised beyond the limit justified by the change in the level of earnings; once again they complain that the purpose of the earnings rule is not understood; once again Professor R. M. TITMUSS dissociates himself from the Committee's approval of the draft regulations. We consider that the effects of the earnings rule should be critically examined; on social and psychological grounds there appears to be an overwhelming case for its abolition. If, however, it is to be retained, a step could be taken quickly and at little cost to make it less obnoxious. The pension payable to men at seventy and women at sixty-five should be distinguished from the retirement pension by being renamed, e.g., "old age pension." The payment of this pension as of right should be publicised together with an explanation that, as a concession, a reduced "retirement pension" is payable in the event of a person retiring up to five years before qualifying for the old age pension. Many private pension schemes contain an optional entitlement to a reduced pension upon a member's electing to retire under the standard age of retirement fixed in the scheme. In reality the National Insurance retirement pension scheme incorporates this principle, but this fact has not been adequately explained to the public.

Contempt of Court

WE join with the Council of The Law Society in welcoming LORD SHAWCROSS's Bill to provide for an appeal in cases of contempt of court. It is anomalous that where the liberty of the subject is concerned there should be no appeal and we hope that the Bill meets with general support and passes into law without delay.

Independence of Juries

THE right of a jury to take such time as its members feel they need for their deliberations was stressed by the Court of Criminal Appeal in *R.* v. *McKenna* [1960] 2 W.L.R. 306; p. 109, *post*. This case, which received much publicity at the time of the trial, concerned charges against three men arising out of the theft of a van containing radio and television sets and other electrical equipment. The trial began at Nottingham Assizes before Mr. Justice STABLE on Monday, 23rd November, 1959, and at the outset the jury were informed that the court could not sit on the following Wednesday afternoon but would rise at 1 p.m. The court sat until 5 p.m. on the Monday and until 6.30 p.m. on the Tuesday. In fact, the court still sat on the Wednesday afternoon and some minutes after 2.30 p.m., after mentioning that he had already considerably disorganised his travel arrangements out of consideration for the jury, the judge said, amongst other things, that he would leave the building in ten minutes and if by that time the jury had not arrived at a conclusion in this case they would have to be kept all night and the matter resumed the next morning. Six minutes later the jury returned verdicts of guilty against the accused, who were variously sentenced to terms of three and two years' imprisonment and three years' probation. The ground of appeal was that there was a substantial miscarriage of justice by the judge's setting of a time limit within which the jury should return their verdict, threatening that otherwise they could not separate until the court's resumption on the following morning. The Court of Criminal Appeal (CASSELS, DONOVAN and ASHWORTH, JJ.), with regret quashed the convictions. A new trial could not be ordered as the trial was not in the true sense of the word a nullity.

Control of Advertisements

ADVERTISEMENT regulations are to be relaxed on 1st March when the Town and Country Planning (Control of Advertisements) Amendment Regulations, 1960 (S.I. 1960 No. 66), come into force. These regulations have been made in order to encourage planning authorities to seek to apply special control. Under the regulations local planning authorities are given wider discretion to consent to the display of certain necessary kinds of advertisement in areas where advertising is limited by regulation on the grounds of amenity. In areas of special control, planning authorities will from 1st March be able to consent to certain necessary directional and other signs, such as a small finger post indicating the way to a golf course off the beaten track, which at present either cannot be permitted or can only be permitted if there is a special reason. In future consent may be given where such a sign is "reasonably required." The new regulations simplify some of the procedure of advertisement control including that for challenging by the local planning authorities and for securing the removal of an advertisement if consent is refused following challenge. The normal period for which consent may be given is increased from three to five years. It is intended to consolidate these regulations with those made in 1948, 1949 and 1951. In circular No. 3/60 of the Ministry of Housing and Local Government, local planning authorities are asked to consider all areas likely to be appropriate for special control with a view to making the necessary orders; they are also requested to review quinquennially the boundaries of such areas already in force, and to consider whether control is still reasonable in areas which in the meantime have become commercial or industrial.

Taxes

A WEALTH of material is to be found in the 102nd Report of the Commissioners of Inland Revenue for the year ended 31st March, 1959, published last week (H.M.S.O., Cmnd. 922, 8s. 6d.). In the fiscal year 1958–59 income tax produced over £2,318m. and surtax a further £166m. More than £271m. was obtained from profits tax. Estate duty yielded over £186m. In Great Britain there were 25,594 estates with net capital value of over £3,000 and not exceeding £5,000; 21,246 estates of between £5,001 and £10,000; and 19,438 estates of over £10,000 (including eight of over £1m. and two above £2m.). Over £66¼m. was brought in by stamp duties in Great Britain: of these, stocks, shares and debentures, etc., accounted for over £33m.; land and property (conveyances, leases, mortgages, etc.), other than stocks and shares, for some £14m.; companies' share capital duty for £5m.; and cheques, bills of exchange, etc., for another £5m. In the last group impressed stamps on cheques raised some £2½m. and receipts were estimated to yield over £2½m. Agreements under hand were thought to produce £104,620. It is interesting to note that receipts from the "once-for-all" special contribution of ten years before were still trickling in, to the tune of £140,896 (net receipt) against a Budget estimate of nil.

EXCLUSIVENESS EXCLUDED

THE case of *Public Trustee* v. *Inland Revenue Commissioners* [1960] 2 W.L.R. 203; p. 68, *ante*, establishes that the fundamental relationship between the Finance Act, 1894, ss. 1 and 2, is the reverse of what it has for many years been supposed to be. It will necessitate a good deal of re-writing and rearrangement of text-books and it will cause much interest among those circles, if any there be, in which the law of estate duty is approached from an academic standpoint. But your contributor takes leave to doubt whether, in practice, there will be many cases or situations in which it will make any difference.

The foundation of the law of estate duty was originally, and still remains, the Finance Act, 1894, ss. 1 and 2. Section 1 grants a charge of estate duty—

> "... upon the principal value ... of all property, real or personal, settled or not settled, which passes on the death ..."

Section 2 (1) provides that—

> "Property passing on the death of the deceased shall be deemed to include the property following ..."

and thereafter there follow the familiar four paragraphs. Paragraph (*a*) deals with property of which the deceased was competent to dispose. Paragraph (*b*), which must be reproduced in full, includes :—

> "Property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest; but exclusive of property the interest in which of the deceased or other person was only an interest as holder of an office, or recipient of the benefits of a charity, or as a corporation sole;"

Paragraph (*c*) deals with that property which was mentioned in the Acts of 1881 and 1889 and para. (*d*) with annuities or interests purchased by the deceased.

Section 2 (2) (which is now replaced by the Finance Act, 1949, s. 28) was concerned with property situated out of the United Kingdom, including some part and excluding another part of such property from property passing on the death of the deceased, and s. 2 (3) provides that property passing on the death of the deceased is not, except as therein stated, to be deemed to include property held by him as trustee.

Cause of the difficulties

So much for the enactments. The difficulties arose because in *Earl Cowley* v. *Inland Revenue Commissioners* [1889] A.C. 198, Lord Macnaghten, at p. 212, delivered himself of a very famous dictum. He said :—

> "Now if the case falls within s. 1 it cannot also come within s. 2. The two sections are mutually exclusive. Section 1 might properly, I think, be headed, 'With regard to property passing on death, be it enacted as follows.' Section 2 might with equal propriety be headed, 'And with regard to property *not* passing on death, be it enacted as follows.' I cannot, therefore, agree with Rigby, L.J., when he says that s. 2 is a provision 'explanatory' of s. 1. In my opinion the two sections are quite distinct, and s. 2 throws no light on s. 1."

As demonstrated in the speech of Viscount Simonds in the present case, at p. 213, those observations were unnecessary to the decision in *Cowley's* case. They have in later cases been a constant source of difficulty to the courts and to the House of Lords and indeed were described in *Sanderson* v. *Inland Revenue Commissioners* [1956] A.C. 491, by Lord Radcliffe, at p. 501, as one of the "many minor mysteries of the law." Nevertheless, they have until now been regarded as enshrining the truth of the matter.

Facts of the case

The facts of the present case were that by the will of the late Lord Northcliffe a fractional share amounting to 30/49½ parts of the income of his residuary estate was bequeathed to the deceased—

> "... during his life so long as he shall act as an executor and trustee of this my will by way of remuneration for so doing."

On the death of the deceased the Revenue authorities claimed that a fractional share amounting to 30/49½ parts of the capital of the residuary estate passed, within s. 1, on the death of the deceased and so was charged with estate duty. It was contended by the personal representative that it had been settled by *Dale* v. *Inland Revenue Commissioners* [1954] A.C. 11; (1953), 34 T.C. 468, that a trusteeship was an office and that the deceased's interest in the fractional share of the residuary estate was only an interest as holder of the office of trustee and accordingly the property in which that interest subsisted was, by s. 2 (1) (*b*), exempted from passing on the death of the deceased. To this the Revenue authorities proffered two answers. First : that the property passed under s. 1 without the aid of s. 2 and that, therefore, relying upon Lord Macnaghten's dictum, nothing in s. 2 had any application or, putting it another way, that the excluding words in s. 2 (1) (*b*) could apply only in a case where the property did not pass under s. 1 but was deemed to pass under s. 2. Secondly, that on the true construction of s. 2 (1) (*b*) the exemption was limited to an interest attached to an office and which the deceased enjoyed *virtute officii*, and did not extend to an interest not attached to an office which the deceased merely enjoyed as an individual so long as he held the office concerned.

The legal position

Danckwerts, J., and the Court of Appeal felt themselves constrained by the dictum of Lord Macnaghten to uphold the first contention of the Revenue authorities. The majority of the House of Lords, Viscount Simonds, Lord Radcliffe, and Lord Cohen (Lord Keith of Avonholm dissenting) held, to put it shortly and briefly, that Lord Macnaghten's dictum was not only wrong but was patently wrong, and that the true relationship of ss. 1 and 2 was the simple and obvious one that s. 1 imposed a charge in general terms and s. 2 defined by inclusion and exclusion the precise area of that charge. Upon that basis it was held, in the words of Viscount Simonds, at p. 213 that :—

> "... ss. 1 and 2 are not mutually exclusive and that the excepting words in s. 2 (1) (*b*) are operative in regard to property which falls within that subsection even though that property may also fall within the wide words of s. 1."

On the second point, Viscount Simonds, at p. 213, held that the plain words of exception in s. 2 (1) (*b*) were not to be cut down in the manner suggested by the Revenue authorities and that the deceased's beneficial interest in the property was in respect of his office as trustee of the will. Lord Radcliffe, at p. 214, and Lord Cohen, at p. 221, expressly agreed with Viscount Simonds on this point.

Practical results of the decision

No doubt some re-writing of text-books will be required and, indeed, as suggested by Viscount Simonds, at pp. 206–7, the deceased's free estate may logically be subsumed under s. 2 (1) (*a*). No doubt those few persons who, as executors or trustees, enjoy an aliquot part of the income of the estate as a

remuneration for their services will hereafter be in the same position as that rather more numerous class of executors and trustees whose remuneration, if any, is confined to an annuity. Hereafter estate duty will not be charged on the death of such a person whichever form his remuneration may take; on the Crown's contention the exemption would have been available in the case of the annuity but not in the case of the aliquot share of income.

Apart from this, what other practical results may flow from the decision? One, which was suggested in the concluding part of the dissenting speech of Lord Keith, may be that those families who are fortunate enough to enjoy an hereditary office, and they are not many, may in the present state of the law be able to effect some economy in estate duty by settling the family estates on successive holders of the office. The other, of more general interest, was suggested in the speech of Lord Radcliffe, at p. 220. Lord Radcliffe was concerned lest the effect of overturning Lord Macnaghten's dictum should have far-reaching consequences but he concluded that the only line of cases which might have been differently decided without that dictum was that of which *Re Cassel; Public Trustee* v. *Mountbatten* (*No. 2*) [1927] 2 Ch. 275, and *Re Duke of Norfolk; Public Trustee* v. *Inland Revenue Commissioners* [1950] Ch. 467, may be taken as examples. Those are cases where a terminable annuity is created and settled upon persons in succession. It has been held that if the annuity has been constituted as a separate piece of property and so settled it passes under s. 1, and that therefore the provisions of s. 2 have no application, with the result that it falls to be valued as prescribed by s. 7 (5), and not as prescribed by s. 7 (7) (*b*). It is apparent from the concluding words of Lord Radcliffe's speech that it will be necessary to wait and see whether, after the latest decision of the House of Lords, a similar conclusion can be reached in such circumstances.

G. B. G.

THE FACTORIES ACT, 1959

SECTION 34 (3) of the Factories Act, 1959, provided that the provisions of that Act should come into operation on such days as the Minister of Labour and National Service should by order appoint and the Factories Act, 1959 (Commencement No. 1) Order, 1959 (S.I. 1959 No. 1877) stipulated that those provisions of the Act specified in the First Schedule to the Order should come into operation on 1st December, 1959, and that the provisions specified in the Second Schedule should come into operation on 1st February, 1960. The effect of the provisions which were brought into operation on 1st December, 1959, was considered in an article at 103 SOL. J. 947, and the purpose of this article is to examine the effect of those provisions which were brought into operation on 1st February, 1960.

Dangerous substances

Section 18 (1) of the Factories Act, 1937, provides that every fixed vessel, structure, sump or pit of which the edge is less than three feet above the adjoining ground or platform shall, if it contains any scalding, corrosive or poisonous liquid, either be securely covered or securely fenced to at least that height, or where by reason of the nature of the work neither secure covering nor secure fencing to that height is practicable, all practicable steps shall be taken by covering, fencing or other means to prevent any person from falling into the vessel, structure, sump or pit. Section 2 (1) of the 1959 Act enacts that for the purposes of s. 18 (1) of the principal Act (i.e., the Factories Act, 1937)—

> "the adjoining ground or platform . . . shall be taken to be the highest ground or platform (whether contiguous or not) from which a person might fall into the vessel, structure, sump or pit."

The following subsections have been inserted after s. 18 (1) of the 1937 Act:—

> "(1A) Where any fixed vessel, structure, sump or pit contains any scalding, corrosive or poisonous liquid but is not securely covered, no ladder, stair or gangway shall be placed above, across or inside it which is not—
>
> (*a*) at least eighteen inches wide, and
>
> (*b*) securely fenced on both sides to a height of at least three feet and securely fixed.
>
> (1B) Where any such vessels, structures, sumps or pits as are mentioned in subsection (1A) of this section adjoin, and the space between them, clear of any surrounding brick or other work, is less than eighteen inches in width or is not securely fenced on both sides to a height of at least three feet, secure barriers shall be so placed as to prevent passage between them.
>
> (1C) For the purposes of this section a ladder, stair or gangway shall not be deemed to be securely fenced unless it is provided either with sheet fencing or with an upper and a lower rail and toe boards" (s. 2 (2) of the 1959 Act).

Provisions similar to those contained in these new subsections may be found, e.g., in the Regulations for Chemical Works, 1922 (S.R. & O., 1922, No. 731), but the effect of s. 2 (2) of the 1959 Act is to make them of more general application.

The Minister may by order exempt from the requirements of s. 18 of the principal Act any class of vessel, structure, sump or pit in the case of which he is satisfied that the requirements are unnecessary or inappropriate (s. 18 (2)) and he may now by regulations extend any of the provisions of s. 18 so as to make them applicable—

(*a*) to a vessel or structure, notwithstanding that it is not fixed; or

(*b*) to a vessel, structure, sump or pit, notwithstanding that the substance it contains is not a liquid (s. 2 (3) of the 1959 Act).

In any provision extended under para. (*b*), above, the expression "scalding" is, in relation to a substance which is not a liquid, to be taken to refer to the substance as likely to cause burns (ibid., s. 2 (3)).

Safe means of access

There has been a divergence of opinion, judicial and otherwise, as to the extent of the obligation imposed by s. 26 (1) of the 1937 Act, which stipulates that:—

> "There shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person has at any time to work."

In this connection "maintained" means "maintained in an efficient state . . . and in good repair" (ibid., s. 152 (1)). For example, in *Callaghan* v. *Fred Kidd & Son (Engineers), Ltd.* [1944] K.B. 560, a workman, the plaintiff, tripped over some iron bars lying on the floor in front of a pedestal mounting two grindstones on which he was working, and in trying to save himself his hand came into contact with one of the

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> "There shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person has at any time to work."

In this connection "maintained" means "maintained in an efficient state . . . and in good repair" (ibid., s. 152 (1)). For example, in *Callaghan* v. *Fred Kidd & Son (Engineers), Ltd.* [1944] K.B. 560, a workman, the plaintiff, tripped over some iron bars lying on the floor in front of a pedestal mounting two grindstones on which he was working, and in trying to save himself his hand came into contact with one of the

revolving grindstones. It appeared that the bars had been brought by a girl to be ground, but instead of grinding them forthwith she had gone away for some purpose. The Court of Appeal held that the defendants, the plaintiff's employers, had failed to "maintain safe means of access," that it was reasonably practicable to do so and that the defendants' breach of statutory duty was the cause of the plaintiff's injury.

The judgment of the court was read by Scott, L.J., who said that s. 26 (1) :—

"imposes a direct obligation on the occupier of the factory, not only to 'provide,' but also to 'maintain safe means of access,' and, in our opinion, the latter words are equivalent to 'maintain the safety of the access' and impose a positive and continuing duty."

However, in *Levesley* v. *Thomas Firth and John Brown, Ltd.* [1953] 1 W.L.R. 1206, Denning, L.J. (as he then was), expressed the view that all previous decisions on s. 26 (1) should be reconsidered in the light of *Latimer* v. *A.E.C., Ltd.* [1953] 3 W.L.R. 259, where the House of Lords held that the similar, but not identical, provisions of s. 25 (1) were aimed primarily at some general condition, e.g., a dangerously polished surface or some permanent fitment which made the place unsafe, and did not apply to a transient and exceptional condition, in that case a mixture of rainwater and an oily cooling agent.

Transient and exceptional obstructions

In *Levesley's* case, *supra*, the plaintiff, an engineer, was employed at the defendants' foundry and the defendants had provided a safe means of access. However, the plaintiff was injured when he stumbled and fell over a piece of packing which extended for some three or four inches into the means of access and he claimed damages, *inter alia*, for breach by the defendants of their statutory duty under s. 26 (1) of the Factories Act, 1937. The plaintiff's action did not succeed as the Court of Appeal took the view that where a safe means of access for workmen to their place of work has been provided, the obligation under s. 26 (1) of the 1937 Act to maintain such means of access "so far as is reasonably practicable" is not broken, in the absence of negligence on the part of the employer, by the presence of a transient and exceptional obstruction on the means of access provided. In arriving at this conclusion, their lordships applied the decision of the House of Lords in *Latimer* v. *A.E.C., Ltd., supra*, and Denning, L.J., said :—

"Once a safe means of access is provided, such as a passage or gangway, the occupier is not responsible for every temporary obstruction . . . which may, through some accident or mischance, occur in it."

It could be contended that the decision of the House of Lords in *Latimer* v. *A.E.C., Ltd., supra*, a decision involving the interpretation of s. 25 (1) of the 1937 Act, did not compel the Court of Appeal to apply the same reasoning in *Levesley* v. *Thomas Firth and John Brown, Ltd., supra*, where the relevant statutory provision was s. 26 (1) of the Act of 1937, and it is interesting to note that in Scotland the courts are still prepared to hold that a temporary obstruction will contravene the requirements of that section (see, e.g., *Lloyd* v. *James Scott & Co. (Electrical Engineers)* (1957), 74 Sh. Ct. Rep. 121). However, the point has lost much of its importance as s. 5 of the Act of 1959 stipulates that in s. 26 (1) of the principal Act there shall be added, at the end, the words—

"and every such place shall, so far as is reasonably practicable, be made and kept safe for any person working there."

It would seem, therefore, that the principle enunciated by the Court of Appeal in *Callaghan* v. *Fred Kidd & Son (Engineers), Ltd., supra*, has been resuscitated.

Liability to fall

Section 26 (2) of the principal (1937) Act stipulates that where any person is to work at a place from which he will be liable to fall a distance of more than 10 feet, then, unless the place is one which affords secure foothold and, where necessary, secure handhold, means shall be provided, so far as is reasonably practicable, by fencing or otherwise for ensuring his safety. Thus, in *Ginty* v. *Belmont Building Supplies, Ltd.* [1959] 1 All E.R. 414, it was held that s. 26 (2) imposed an obligation upon the occupiers of a factory to provide the means of ensuring the safety of some men who had been instructed to strip the existing asbestos roof on one of their workshops and to replace it with new asbestos sheeting. When the men arrived at the factory to carry out this work they were supplied with a ladder and shown some duckboards, crawling boards and scaffold boards and told to help themselves to what they wanted. Pearson, J., took the view that the appropriate means of ensuring the safety of the men would have been to supply such boards and that s. 26 (2) imposed an obligation upon the occupiers of the factory to provide them. In the event, his lordship held that the occupiers had complied with the requirements of that subsection, and the obligations imposed by it are unaffected by the Factories Act, 1959, except that the distance which a person is liable to fall, formerly 10 feet, is now 6 feet 6 inches (ibid., s. 5).

Dangerous fumes

Precautions against dangerous fumes were required by s. 27 of the principal (1937) Act, as amended by s. 11 (2) and (3) of the Factories Act, 1948, and these requirements have now been replaced by the following provisions :—

"27.—(1) The provisions of subsections (2) to (8) of this section shall have effect where work in any factory has to be done inside any chamber, tank, vat, pit, pipe, flue or similar confined space, in which dangerous fumes are liable to be present to such an extent as to involve risk of persons being overcome thereby.

(2) The confined space shall, unless there is other adequate means of egress, be provided with a manhole, which may be rectangular, oval or circular in shape, and shall be not less than eighteen inches long and sixteen inches wide or (if circular) not less than eighteen inches in diameter, or in the case of tank wagons and other mobile plant not less than sixteen inches long and fourteen inches wide or (if circular) not less than sixteen inches in diameter.

(3) Subject to subsection (4) of this section, no person shall enter or remain in the confined space for any purpose unless he is wearing a suitable breathing apparatus and has been authorised to enter by a responsible person and, where practicable, he is wearing a belt with a rope securely attached and a person keeping watch outside and capable of pulling him out is holding the free end of the rope.

(4) Where the confined space has been certified by a responsible person as being, for a specified period, safe for entry without breathing apparatus and the period so specified has not expired, subsection (3) of this section shall not apply, but no person shall enter or remain in the space unless he has been warned when that period will expire.

(5) A confined space shall not be certified under subsection (4) of this section unless—

(*a*) effective steps have been taken to prevent any ingress of dangerous fumes, and

(*b*) any sludge or other deposit liable to give off dangerous fumes has been removed and the space contains no other material liable to give off dangerous fumes, and

(*c*) the space has been adequately ventilated and tested for dangerous fumes and has a supply of air adequate for respiration ;

but no account shall be taken for the purposes of paragraph (*b*) of this subsection of any deposit or other material liable to give off dangerous fumes in insignificant quantities only.

(6) There shall be provided and kept readily available a sufficient supply of breathing apparatus of a type approved by the chief inspector, of belts and ropes, and of suitable reviving apparatus and oxygen, and the apparatus, belts and ropes shall be maintained and shall be thoroughly examined, at least once a month or at such other intervals as may be prescribed, by a competent person; and a report on every such examination, signed by the person making the examination and containing the prescribed particulars, shall be kept available for inspection.

(7) A sufficient number of the persons employed shall be trained and practised in the use of the apparatus mentioned in subsection (6) of this section and in a method of restoring respiration.

(8) The chief inspector may by certificate grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of the foregoing provisions of this section in any case where he is satisfied that compliance with those requirements is unnecessary or impracticable.

(9) No person shall enter or remain in any confined space in which the proportion of oxygen in the air is liable to have been substantially reduced unless either—

(*a*) he is wearing a suitable breathing apparatus; or

(*b*) the space has been and remains adequately ventilated and a responsible person has tested and certified it as safe for entry without breathing apparatus.

(10) No work shall be permitted in any boiler-furnace or boiler-flue until it has been sufficiently cooled by ventilation or otherwise to make work safe for the persons employed."

Changes summarised

The principal changes brought about by the introduction of the new s. 27 by s. 6 of the 1959 Act may be summarised as follows:—

(i) the person entering or remaining in a confined space in which dangerous fumes are liable to be present must have been authorised to enter by a responsible person and the person outside must be "keeping watch and capable of pulling him out," in addition to holding the free end of the rope;

(ii) the requirements as to the wearing of a suitable breathing apparatus, authority to enter and the wearing of a belt with a rope securely attached do not apply where the confined space has been certified by a responsible person as being, for a specified period, safe for entry without breathing apparatus and the person entering has been warned when that period will expire, but a confined space is not to be so certified unless the requirements of subs. (5) of the new s. 27 have been complied with;

(iii) the breathing apparatus must be of a type approved by the chief inspector;

(iv) no person is to enter or remain in a confined space in which the proportion of oxygen in the air is liable to have been substantially reduced unless he is wearing a suitable breathing apparatus or the space has been and remains adequately ventilated and a responsible person has tested and certified it as safe for entry without breathing apparatus.

It will be observed that several of the new requirements have their counterparts in the Regulations for Chemical Works, 1922.

Explosive dust

Section 28 (1) of the principal (1937) Act requires certain precautions where dust liable to explode on ignition may escape into any workroom. However, this provision has been amended by s. 7 of the 1959 Act so that those precautions are now required simply where dust liable to explode on ignition may escape—not necessarily into any workroom. In view of this amendment, and the substitution for the words "the dust," of the words "any dust that may escape in spite of the enclosure," s. 28 (1) now stipulates that:—

"Where, in connection with any grinding, sieving, or other process giving rise to dust, there may escape dust of such a character and to such an extent as to be liable to explode on ignition, all practicable steps shall be taken to prevent such an explosion by enclosure of the plant used in the process, and by removal or prevention of accumulation of any dust that may escape in spite of the enclosure, and by exclusion or effective enclosure of possible sources of ignition."

The remaining sections of the Factories Act, 1959, will come into operation on such day or days as the Minister may by order appoint, and the effect of these provisions will be considered in a further article when such an order is made.

D. G. C.

County Court Letter

BRINE-PUMPING AND ALL THAT

WHEN the county courts came into existence as a result of the County Courts Act, 1846, their work was intended to be primarily the collection of debts of £20 and under. They replaced a number of Courts of Request with varying jurisdictions and procedures, but with a common reputation of slowness and inefficiency. Since that time the general jurisdiction of the county court has grown up till it now includes claims of up to £400 instead of £20, which may or may not be some indication of the change in the value of money since 1846. In addition, during the course of years it has been given by various statutes special jurisdiction in a number of unrelated matters of varying degrees of importance, and in this respect it has become something of a judicial odd job man.

A glance at the summary of statutes and orders conferring special jurisdiction in the County Court Practice shows that the subjects covered vary from brine-pumping, through clergy discipline, food and drugs, inebriates, moneylenders and rag flock, to riots and river pollution. Our faithful trio, the married women, infants and persons of unsound mind, are there of course, as well as hire purchase and the Rent Acts, as to which the county court has sole jurisdiction. Some of these subjects are sufficiently important to warrant articles of their own; others are too unimportant to need any mention at all, but there are a number which crop up from time to time and could consequently with advantage be borne in that part of the mind that pigeon-holes things that are occasionally useful and frequently overlooked.

For instance, it is sometimes forgotten that a register of bills of sale is kept at every county court outside the London bankruptcy area. Copies of bills of sale affecting people or property within the area of the court concerned are sent to it and can be inspected, and copies obtained, on payment of the appropriate fee. A similar register is kept of deeds of arrangement under the Deeds of Arrangement Act, 1914, s. 10.

Clean air

One of the most recent additions to the special jurisdiction is in connection with clean air. Under s. 28 (1) of the Clean Air Act, 1956, a person who wishes to carry out works to

premises to enable them to be used without contravening the Act and cannot get any necessary consent, may apply to the county court for an order dispensing with it. He may also ask the court to order some other person to pay for part of the work.

In connection with parliamentary or local elections the county court has curiously varied powers. For instance, it can hear an appeal from the decision of a registration officer to include a person's name in, or exclude it from, the list of voters, or to treat or not to treat a voter as an absent or service one (Representation of the People Act, 1949, s. 45). It can give leave for payment of expenses claims submitted out of time or disputed (ss. 66, 67 and 68) and can give relief in respect of the offence of failing to make expense returns within thirty-five days of the declaration of the result (s. 74) and that of making an unauthorised payment (s. 145). There are a number of other powers given to it by the Act, though the foregoing are the most likely to be met with in practice.

In the days of the benevolent squirearchy, it was not uncommon for the lord of the manor to donate a sum of money for a village institute or reading room or some such local institution. In these days of working men's clubs and the "telly" there is little support for this kind of thing and from time to time it becomes necessary to wind up such an organisation and dispose of its assets. This can present a problem, but the Literary and Scientific Institutions Act, 1854, may come to the rescue. If there is no agreement among the remaining members as to what is to be done with the assets (s. 29) or if there is a surplus of assets over liabilities (s. 30), an application can be made to the county court, and the judge has power to direct what steps are to be taken, including the power to nominate some other similar institution to which the surplus is to be given.

The court's right to re-open moneylending transactions is too well known to need detailing here, but there are points that are sometimes forgotten. For instance, though interest at a rate in excess of 48 per cent. is generally known to be presumed to be harsh and unreasonable, it is on occasion overlooked that it is possible for a lower rate to be so described having regard to the facts. On the other hand, in certain circumstances a higher rate might not be. It is also worth remembering that the court can re-open a transaction before the money is due (Moneylenders Act, 1900, s. 1 (2)) and even re-open dealings that are closed (s. 1 (1)). Almost everything of value in connection with moneylending cases can be found in *Saunders* v. *Newbold* [1905] 1 Ch. 260.

Small dwellings

Where a local authority takes possession of a house subject to the Small Dwellings Acquisition Act, 1899, and the sum payable to the owner is not agreed, the county court has power to determine it (s. 5 (2) (*b*)) whatever the value of the house may be. Actual possession can be obtained by county court order (s. 5 (5)).

Since the Tithe Act, 1936, private practitioners are not much interested in the recovery of tithe, except from the point of view of clients who may seek their advice as to what will happen if they do not pay. The answer, of course, is that the county court may make an order for payment, or for distress to be levied, or for a receiver to be appointed. Avoiding payment is almost impossible, but the reluctant payer might possibly like to follow the example of the farmer who regularly made out his tithe cheque to "The Thieves of the Tithe Redemption Commission." History does not disclose how such cheques were endorsed.

The county court has various powers in connection with trusts where the fund does not exceed £500 (County Courts Act, 1959, s. 52 (1) (*b*)). These include the appointment of judicial trustees (Judicial Trustees Act, 1896, s. 1). A most useful provision is that contained in s. 63 of the Trustee Act, 1925, which enables trustees to pay into court money or securities for which they are unable to obtain a valid receipt.

The eclipse of the Workmen's Compensation Acts by the National Insurance (Industrial Injuries) Act, 1946, has done much to reduce the importance of this subject in the county courts. However, they still hold funds for dependants, and it is worth remembering that under s. 2 of the 1925 Act, on the death of a dependant, the court can distribute the fund among such persons as may appear to be entitled without probate or letters of administration being taken out.

It will be seen from the foregoing that the special jurisdiction of the county court is exercised in four ways. It tries issues between parties; it controls and regulates; it gives directions to some person who otherwise does not know what to do; and it hears appeals. The matters that it deals with are numerous and varied. Some, such as married women, infants, bankrupts and ships merit articles of their own, but the points mentioned above are those that past experience suggests are most likely to be met with in practice in the other less important subjects. It now only remains for future experience to prove, as usual, how far off beam past experience can be.

J. K. H.

"THE SOLICITORS' JOURNAL," 4th FEBRUARY, 1860

On the 4th February, 1860, THE SOLICITORS' JOURNAL discussed law reform with particular reference to a proposal by Lord Brougham to extend a system of conveying copyholds practised in Cumberland. It said that his Bill "for reducing the length of a conveyance to 200 words and the cost of it to 7s. has been read a first time in the House of Lords. It seems that in Cumberland people like the existing practice of conveying copyholds so well that they live in a state of perpetual astonishment at the hesitation of landowners throughout England to profit by their example . . . Communities, civilized or savage, do generally contrive to suit their wishes and their ways of life to the natural and artificial conditions under which they have grown up. Very likely one manner of living, when you are used to it, produces nearly as much comfort and happiness as another; but if you are not used to it, it makes a very great difference. We can imagine a Highlander saying to an Englishman, 'I cannot for the life of me imagine why you wear trousers. Look at me, and see what health and activity I preserve without them.' And that is just the sort of argument which comes . . . from the model copyholders of Lord Brougham . . . The answer is that a wealthy and highly organised society has many wants which may . . . be called artificial, but which are, nevertheless, indispensable. One of these wants is trousers; and very likely marriage settlements, something like those which are now drawn in Lincoln's Inn, may be another. Of course, there are nations, by no means deficient in civilization, who would think even the forms of a Cumberland manor-court tedious, just as there are tribes who would find the Highlander's kilt burdensome. But as nobody recommends a London tailor to seek for fashions in Central Africa so we do not believe that any useful improvement in our English methods of land transfer is likely to be derived from appealing to the examples of France and Germany."

Practical Conveyancing

MARKING OF ABSTRACTS

FROM time to time there has been controversy as to the stage in a transaction of purchase at which the abstract of title should be examined with the deeds. The generally accepted opinion seems to be that it is advisable to carry out the examination before the requisitions on title are submitted, so that any questions which arise from the examination can conveniently be raised with the vendor. On the other hand, it is not always easy to do this, and in straightforward transactions the examination is often deferred.

In making their recent recommendations as to the provision of abstracts by means of epitomes and photographic copies of documents, the Council of The Law Society drew attention to the "increasing tendency, which has obvious dangers, for the examination of the deeds against the abstract of title to be left until immediately prior to completion" (*Law Society's Gazette*, vol. 56, p. 452). There is no doubt that a purchaser's solicitor, who holds what he has every reason to believe to be a photographic copy of relevant documents, is tempted to defer the examination of the originals until he necessarily attends at the vendor's solicitor's office for completion. It may be for this reason that the Council have inserted a note in the January issue of the *Gazette* (vol. 57, p. 53) reminding solicitors of the importance of examining the abstract against the deeds. They state that the "practice of examining the deeds and marking the abstract, whether the vendor and purchaser are separately represented or represented by the same solicitor, is one which should always be carried out" and that it should be done before the time for requisitions expires.

The advantage of carrying out the examination before the time allowed by the contract for requisitions has passed is clear. There is one aspect of the wording used which the writer finds somewhat surprising, however, namely, the statement that the abstract should always be marked. In 1931, the Council expressed the view that the practice of marking an abstract as examined by the purchaser's solicitor, was "practically universal." That comment was made, however, in relation to a case in which the title deeds were not handed over to the purchaser, because they related also to the property retained by the vendor.

The abstract should certainly be marked as having been examined against any deeds which will not be handed over on completion. Nevertheless, the present writer's experience causes him to doubt whether the majority of solicitors do mark the abstract if they know that their client will obtain the deeds. There is no decision of a court on this question (or on many other similar matters of practice), and so opinions expressed by the Council are normally regarded as authoritative. It will be most interesting to see whether, in the near future, most abstracts of title are marked, even though the title deeds are handed over on completion, and particularly where the same solicitor acts for both vendor and purchaser.

J. GILCHRIST SMITH.

Landlord and Tenant Notebook

WAIVER OF INVALID NOTICE

A TENANT of business premises who receives a notice to terminate under the Landlord and Tenant Act, 1954, Pt. II, must, within two months of receiving it, notify the landlord in writing whether or not, at the date of termination, he will be willing to give up possession of the property comprised in the tenancy (s. 25 (5)) and, unless he has notified unwillingness within that period, he has no right to apply for a new tenancy (s. 29 (2); see *Re Nos. 55 and 57 Holmes Road, Kentish Town; Beardmore Motors v. Birch Bros.* (*Properties*) [1958] 2 W.L.R. 975). A tenant farmer who receives a notice to quit has one month in which to serve a counter-notice (Agricultural Holdings Act, 1948, s. 24 (1)), or to serve notice requiring a question arising under ibid., s. 24 (2), to be determined by arbitration (Agricultural Land Tribunals and Notices to Quit Order, 1959, reg. 6).

Suppose that such a tenant receives what purports to be a notice to terminate or to quit, the validity of which is open to question. Authorities, four of which I propose to discuss, suggest that he, and those whom he may consult, are likely to be faced with a difficult problem. The goalkeeper who suspects or believes that the opponent who is about to shoot is offside is in a better position; he may, and would be well advised to, attempt a save; and even if the result is a save but one which enables the same or another opponent to send the ball into the net his side will not be debited if the referee—who may himself have been in doubt and have exercised his right to consult a linesman—decides that the first-named opponent was offside. No question of waiver can arise, as it did in the four cases concerned with business tenancies with which I am about to deal.

"Cannot have both"

In the first of these, *W. Davis (Spitalfields), Ltd.* v. *Huntley* [1947] 1 All E.R. 246, a case under the Landlord and Tenant Act, 1927, s. 5, now repealed, the tenants of business premises had notified a claim to a new lease on the ground of goodwill. The landlords had given them what purported to be a three months' notice to quit, the notice being open to the objection that it did not adequately indicate the date of expiry. The tenants then served the requisite notice requiring a new lease—which had to be served within one month after service upon them of the notice to quit—and "at the same time claimed that the notice to quit was not a valid notice and that the lease of 1935 [the old lease] was still subsisting." The landlords sued for possession. Henn Collins, J., held that the notice to quit had been valid, but proceeded to consider what would be the position if it had not. The learned judge agreed that it was extemely hard to require a tenant, within a month of receiving a notice purporting to terminate the tenancy and during its currency, to bring his proceedings under the Act if he necessarily affirmed the validity of the notice:

> "Where, however, the tenant is asking for a new tenancy (under s. 5 (1) of the Act), the matter is completely different. He cannot have both the old tenancy and a new one. If

he affirms the position that he wants a new tenancy, he can only do so on the footing that the old one is at an end. If and so far as the tenant claims a new tenancy, he is not thereafter entitled to say that the old one is still subsisting . . ."

Promptitude

In *Tennant* v. *London County Council* (1957), 121 J.P. 428, (C.A.), Jenkins, L.J., invoked the above decision though the claim before the court was actually a claim by the tenant recipient of a notice for a declaration that that notice was invalid. The notice was one purporting to be a Landlord and Tenant Act, 1954, Pt. II, notice to terminate his tenancy and had been served on 4th January, 1956. The form in which it was signed might have at least put him on inquiry as to authenticity and compliance with statutory requirements, but in May he filed an application for a new tenancy, and it was only the contents of an affidavit sworn on behalf of the landlords in September that brought home to him the possibility of impugning the notice to terminate. In December he issued the writ claiming the declaration.

Again, the court was against the tenant on the question of validity; but, dealing obiter with the point I am discussing, Jenkins, L.J., said:

> " The case is perhaps somewhat near the line, but I do regard it as most desirable in cases under the Landlord and Tenant Act, 1954, where time may be an important consideration, that parties who wish to take an objection to the form or the validity of the proceedings should act promptly and not reserve objections of this sort until the proceedings have been on foot for a matter perhaps of months. Accordingly, had it been necessary for me to arrive at a conclusion on this part of the case, I would have been prepared to hold that any otherwise well-found objection there might be to the notice was, on the facts to which I have briefly referred, waived."

" By way of insurance "

In my third case, *Rhyl Urban District Council* v. *Rhyl Amusements, Ltd.* [1959] 1 W.L.R. 465, the point arose in rather unusual circumstances. The plaintiff council were respondents to an application for a new tenancy under the Landlord and Tenant Act, 1954, Pt. II, but brought an action for declarations. They had, in 1932, let or purported to let premises to the applicant-defendants for a term of thirty-one years, but had omitted to obtain the necessary consent of the then Local Government Board (now Ministry of Housing and Local Government). On the footing that the effect was a yearly tenancy, they served an ordinary notice to quit on 10th June, 1954, and, the Landlord and Tenant Act, 1954, Pt. II, having come into operation on 1st October, the tenants served a notice requesting a new tenancy under s. 25 of that enactment, accompanying it by a letter saying that it was made without prejudice to any existing rights or claims (i.e., their right to claim that the 1932 grant was valid). Nothing was done about this request, the next event being the service, in October, 1955, of a s. 25 notice to terminate, and one stating that an application for a new tenancy would be opposed. The defendants were thus faced with the dilemma which I am discussing; and what they did was to serve the s. 25 (5) counter-notice notifying unwillingness to give up possession, but also to follow it the same day by a letter stating that any steps taken by them under the Act were precautionary and without prejudice to their contention that the 1932 lease was valid and the notice to terminate a nullity. In February, 1956, they issued a summons for a new tenancy in which they maintained that the 1932 lease was still current, but pleaded a yearly tenancy in the alternative.

Dealing with the contention that the defendants, by asking for a new tenancy, must be taken to have elected to rely upon their statutory rights and could not be heard to say that the 1932 lease was still subsisting, Harman, J., held that the covering letter stating that this was a notice made without prejudice showed that there was no true election:

> " The defendants were alleging the validity of the 1932 lease, but by way of insurance, in case that proved wrong, they sought to protect themselves under the Act of 1954, and I do not see why they should not take this course."

The learned judge then distinguished *W. Davis (Spitalfields), Ltd.* v. *Huntley* and *Tennant* v. *London County Council* in that in the case before him the defendants were seeking to retain a different lease, the 1932 lease, and not the yearly tenancy:

> " It was, therefore, not a matter of waiving some point about the sufficiency of the notice, but a claim that no notice could be given at all."

Promptitude again

In the recent case of *Stylo Shoes, Ltd.* v. *Prices Tailors, Ltd.* [1960] 2 W.L.R. 8; p. 16, *ante* (we discussed the main issue at p. 46), a notice to terminate which had not been sent to the tenants' address at the time had reached them, by virtue of redirection, on 2nd December, 1958, and on 2nd January, 1959, their solicitors notified unwillingness to give up possession in a letter which went on:

> " Our clients do not admit the validity of the notice served and this reply thereto is given without prejudice to any contention that our clients may hereafter raise respecting the validity of the notice."

On 16th March they issued an application for a new tenancy which referred, *inter alia*, to the date of the notice to terminate. In July, 1959, they took out a summons to determine the question of validity. Dealing obiter with a plea of waiver, Wynn Parry, J., said:

> " I will express the view that, on the facts which I have recited, the tenants must be taken to have waived any invalidity, had there been any invalidity, in the service of the notice. I think, on this part of the case, that the reasoning of the Court of Appeal in *Tennant* v. *London County Council* applies."

No reference was made, in this case, to *Rhyl Urban District Council* v. *Rhyl Amusements, Ltd.*

The test

The term " waiver " is, as Lord Wright observed in *Smyth (Ross T.) & Co., Ltd.* v. *Bailey, Son & Co.* [1940] 3 All E.R. 60, a vague term used in many senses; and his lordship, after illustrating such senses, deprecated its use without further precision. The illustrations were: election where a person decides between two mutually exclusive rights, and the giving up of a right to enforce a condition or a right to rescind a contract, or the prevention of performance, or announcement of refusal of performance, or loss of an equitable right by laches.

While, then, some objection might be felt to Jenkins, L.J.'s " any otherwise well-found objection there might be to the notice was . . . waived " in *Tennant* v. *London County Council*

and to Wynn Parry, J.'s "the tenants must be taken to have waived any invalidity . . . in the service of the notice," on the ground that there is no question of giving up a right, and that there is no cure for a defective or unserved notice, the answer would be that the term was used in the sense of election between two mutually exclusive rights: clearly the *ratio decidendi* in *W. Davis (Spitalfields), Ltd.* v. *Huntley* and *Rhyl Urban District Council* v. *Rhyl Amusements, Ltd.*

This means that if my suggested analogy with the position of the goalkeeper is false, it is because in his case there would be no choice to be made between mutually exclusive rights. What remains somewhat obscure, however, is the question, to what extent does the nature of the objection, and to what extent does quick reaction, affect the position? In *Rhyl Urban District Council* v. *Rhyl Amusements, Ltd.*, Harman, J., appears to have drawn a distinction between waiving a point about "sufficiency" and claiming that no notice has been given at all; a distinction not easily reconciled with authorities showing that an insufficient notice is not a notice at all (*Doe d. Spicer* v. *Lea* (1809), 11 East 312; *Simmons* v. *Underwood* (1897), 76 L.T. 777; *Hankey* v. *Clavering* [1942] 2 K.B. 326 (C.A.)). But a tenant may by conduct estop himself from disputing the validity of a notice, i.e., if such conduct is acted upon by the landlord: see *Fenner* v. *Blake* [1900] 1 Q.B. 426, and the reasoning in *Central London Property Trust, Ltd.* v. *High Trees House, Ltd.* [1947] 1 K.B. 130 (C.A.). It may, then, amount to this: a tenancy can be determined by, just as it can be "created" by, estoppel; and such an estoppel arises if a tenant puts forward a claim inconsistent with the invalidity of the notice. Thus in *W. Davis (Spitalfields), Ltd.* v. *Huntley*, Henn Collins, J., assumed, for the purpose of his obiter dictum, that the notice had not been valid, but held in effect that the tenancy had come to an end—not, on the assumption made, by notice. The other authorities suggest that provided that the objection is made quite clear at the earliest possible moment, the tenant may be able to maintain it; and, as no form is prescribed for a s. 25 (4) counter-notice as it is for a notice to terminate, it should be possible for the recipient to comply with the "has duly notified the landlord that he will not be willing at the date of termination to give up possession" requirement of s. 29 (2), reserving the question of validity. He should, however, question the validity by originating summons as soon as possible.

R. B.

HERE AND THERE

POLICE PAY

WHEN the Lord Chief Justice of England himself appears unheralded in the House of Lords to press for a speedy increase in the remuneration of the police, neither the Treasury nor the local authorities can afford to ignore him. Money, of course, has always been a pretty pressing preoccupation in all but the most primitive societies, but hardly ever before has mere money meant so much in the minds of so many as in our present "Prosperity State." It would, therefore, be extremely unwise, when both industry and crime obviously pay so well, to go on letting policemen or potential policemen be lured away to either of them or to encourage them to augment their emoluments by ingenious private enterprise in the exercise of their calling. A major justification for high judicial salaries has always been the idea of placing the judges beyond the temptations of corruption. The principle applies just as strongly to policemen. A hundred years ago (just after the "Peelers" came out of their top hats) the Metropolitan Police were paid £1 a week, less 1s. 4d. deducted for food. For this they had to be constantly ready to cope with a "rough house," with no means of summoning aid but their whistles. But times have changed.

NOT ALWAYS "WONDERFUL"

A SURVIVOR of those times looking back from the years between the two great wars recalled: "Kid-glove methods were no use in dealing with the roughs round the King's Cross district then. The policeman had to be able to give more than he took. A good straight left was worth more than a soft tongue and a threat of arrest. In those days the policeman seemed to be regarded as the enemy of all men and did not command the respect he does to-day." The days when every visiting foreigner was expected to tell us as a matter of common form that "your policemen are wonderful" were relatively brief. The constable was a stock figure of fun from "Much Ado About Nothing" to "The Pirates of Penzance." Considering that his whole business is to hold himself permanently in readiness to prevent quite a lot of people from doing what they want to do, the wonder is that the English policeman ever did achieve the wide popularity he once enjoyed. "The police," wrote Hilaire Belloc in "The Path to Rome," "are the same in all countries and will swear black is white and destroy men for a song." Yet he added that, where there is *droit administratif*, "you are much surer of punishing your policeman and he is much less able to do you damage than in England or America, for he counts as an official and is under a more public discipline and responsibility if he exceeds his powers."

PUBLIC MONUMENTS

THERE was an interesting letter in the paper recently in which an old policeman gave his impressions of the young policeman. He said he himself had been known and respected on the beat because he had the ability "to see the other chap's point of view and the physical capacity to assist in convincing a would-be naughty customer that I was equal to whatever line he desired to take." He thought that in the main the rift between the police and the public had come about because the young policeman of to-day is far too supercilious. To those who remember an earlier generation of policemen, he also seems smaller and slighter. In the matter of confidence the eye plays a great part. A policeman should have something of the character of a public monument. (After all he is a national institution.) There should be a certain massive solidity about him. To my mind, the police have never been quite the same since they abandoned their serviceable high-collared tunics and took to the *snobbism* of trying to look like commissioned officers with open tunics and ties. Physique and presentation are, of course, only one aspect of the subtly balanced police-public relationship. There is another which is summed up in words, written many years before the present tension in that relationship, which might well be reconsidered now: "It is, therefore, of vital importance to the legislator to apprehend that the introduction of legislation which does not receive the stamp of public approval,

carrying the acceptance of all classes as just, reasonable, right and proper regulation for the conduct of all, will be doomed eventually to failure; the task of the police will be made onerous in the extreme; the good relations existing between police and public will suffer; and what is of even more importance, laxity of conduct due to resentment at unnecessary and unwarrantable interference with the discretion and liberty of the individual will be succeeded by a general and growing disregard of other laws hitherto accepted without demur." Does that, as they say, ring a bell?

RICHARD ROE.

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

PROGRESS OF BILLS

Read First Time:—

Air Corporations Bill [H.C.] [28th January.
Cinematograph Films Bill [H.C.] [27th January.
Foreign Service Bill [H.C.] [27th January.

Read Second Time:—

Indecency with Children Bill [H.L.] [28th January.
Marriage (Enabling) Bill [H.L.] [26th January.
Road Traffic Bill [H.L.] [26th January.

HOUSE OF COMMONS

PROGRESS OF BILLS

Read First Time:—

European Free Trade Association Bill [H.C.] [28th January.

To make provision for matters arising out of the establishment of the European Free Trade Association or otherwise out of agreements relating to trade made with members of the Association; and to repeal the Dyestuffs (Import Regulation) Acts, 1920 and 1934.

Housing (Unfit Premises) Bill [H.C.] [27th January.

To enable local authorities to issue a closing order nisi in respect of houses which are not reasonably fit for human habitation and which have become vacant by the re-housing of the occupants.

Requisitioned Houses Bill [H.C.] [27th January.

To enable the Minister of Housing and Local Government to extend the period for which possession of requisitioned houses may be retained by local authorities under the Requisitioned Houses and Housing (Amendment) Act, 1955, and for purposes connected therewith.

Read Second Time:—

Game Laws (Amendment) Bill [H.C.] [29th January.
Payment of Wages Bill [H.C.] [28th January.

In Committee:—

Coal Industry Bill [H.C.] [27th January.

STATUTORY INSTRUMENTS

Coal and Other Mines (Shafts, Outlets and Roads) Regulations, 1960. (S.I. 1960 No. 69.) 1s.

County of Durham (Electoral Divisions) Order, 1960. (S.I. 1960 No. 88.) 5d.

Coventry Water Order, 1960. (S.I. 1960 No. 42.) 5d.

Fylde (Water Charges) Order, 1960. (S.I. 1960 No. 70.) 5d.

Haverfordwest Corporation (Water Charges) Order, 1960. (S.I. 1960 No. 46.) 4d.

London Traffic Regulations, 1960:—
Parking Places (Consolidation) (Amendment). (S.I. 1960 No. 63.) 5d.
Prescribed Routes:—
Bermondsey. (S.I. 1960 No. 84.) 5d.
Hendon (Amendment). (S.I. 1960 No. 93.) 4d.
Holborn (Amendment). (S.I. 1960 No. 73.) 4d.
Kingston-upon-Thames. (S.I. 1960 No. 74.) 4d.
Lambeth. (S.I. 1960 No. 61.) 4d.
Southwark. (S.I. 1960 No. 62.) 5d.
Prohibition of Cycling:—
Heston and Isleworth. (S.I. 1960 No. 94.) 5d.
Prohibition of Cycling on Footpaths:—
Caterham. (S.I. 1960 No. 64.) 4d.
Shoreham, Sutton-at-Hone and Westerham, Kent. (S.I. 1960 No. 85.) 5d.
Staines. (S.I. 1960 No. 75.) 4d.
Prohibition of Waiting:—
Riverhead. (S.I. 1960 No. 86.) 5d.
Restrictions on Driving:—
Hatfield. (S.I. 1960 No. 76.) 5d.
Weight Restriction:—
Roydon. (S.I. 1960 No. 65.) 5d.

Draft **National Insurance** (Earnings) Regulations, 1960.

Royston Water Order, 1960. (S.I. 1960 No. 45.) 4d.

Stopping up of Highways Orders, 1960:—
County Borough of Bournemouth (No. 1). (S.I. 1960 No. 72.) 5d.
City and County Borough of Bradford (No. 1). (S.I. 1960 No. 36.) 5d.
County of Cornwall (No. 1). (S.I. 1960 No. 53.) 5d.
County of Cumberland (No. 1). (S.I. 1960 No. 59.) 5d.
County of Derby (No. 1). (S.I. 1960 No. 57.) 5d.
County of Derby (No. 2). (S.I. 1960 No. 48.) 5d.
County of Durham (No. 3). (S.I. 1960 No. 49.) 5d.
County of Glamorgan (No. 1). (S.I. 1960 No. 83.) 5d.
County of Kent (No. 1). (S.I. 1960 No. 58.) 5d.
County of Leicester (No. 1). (S.I. 1960 No. 71.) 5d.
City and County Borough of Liverpool (No. 1). (S.I. 1960 No. 37.) 5d.
City and County of Newcastle-upon-Tyne (No. 1). (S.I. 1960 No. 51.) 5d.
County Borough of Barnsley and County of York, West Riding (No. 1). (S.I. 1960 No. 52.) 5d.
County of York, West Riding (No. 3). (S.I. 1960 No. 60.) 5d.
County of York, West Riding (No. 4). (S.I. 1960 No. 50.) 5d.

Town and Country Planning (Control of Advertisements) Amendment Regulations, 1960. (S.I. 1960 No. 66.) 5d.

Tuberculosis (Area Eradication) Amendment Order, 1960. (S.I. 1960 No. 87.) 5d.

Wages Regulation (Paper Box) Order, 1960. (S.I. 1960 No. 79.) 8d.

West Suffolk (Advance Payments for Street Works) Order, 1960. (S.I. 1960 No. 47.) 4d.

SELECTED APPOINTED DAYS

February
1st Factories Act, 1959, ss. 2, 5, 6, 7; s. 34 (2) (part only) and Pt. I of Sched. III (part only).

NOTES OF CASES

The Notes of Cases in this issue are published by arrangement with the Council of Law Reporting, and, in general, full reports will be found in the Weekly Law Reports. Where possible the appropriate page reference is given at the end of the note

House of Lords

NEGLIGENCE: DUTY TO MAINTAIN MINING EQUIPMENT

Hamilton *v.* National Coal Board

Viscount Simonds, Lord Radcliffe, Lord Cohen, Lord Keith of Avonholm and Lord Jenkins

15th December, 1959

Appeal from the Second Division of the Court of Session ([1959] S.L.T. 255).

A miner sought damages for injury suffered in the course of his employment, alleging that his employers were in breach of the duty imposed by s. 81 (1) of the Mines and Quarries Act, 1954. He averred that his hand had been injured through the absence of stells to anchor a hand-operated winch, which had tipped forward and pinned it against a roof girder. He contended that the absence of stells, for whatever reason, constituted a breach of the statutory duty to maintain the winch properly. By s. 81 (1) of the Act: "All parts and working gear . . . including the anchoring and fixing appliances of all machinery and apparatus used as or forming part of the equipment of a mine . . . shall be properly maintained." The Second Division of the Court of Session having upheld a decision of the Sheriff-Substitute of the Lothians and Peebles in favour of the employers, the employee appealed to the House of Lords.

VISCOUNT SIMONDS said that all turned on the meaning in their context of the words "properly maintained." It was impossible to approach this case uninfluenced by previous decisions on this and other Acts, and more help was to be found in the construction which had been put on the simple word "maintain" in the context of machinery and works of all kinds than in the words which were supposed to define or qualify that word: see *Smith* v. *Cammell, Laird & Co., Ltd.* [1940] A.C. 242, 263; *Galashiels Gas Co., Ltd.* v. *Millar* [1949] A.C. 275, and *Latimer* v. *A.E.C., Ltd.* [1953] A.C. 643. It was reasonable that variations of language should be supposed to intend some difference of meaning, but the fact that in one Act there was a definition clause and in another there was not did not provide a sufficient reason for departing from a meaning which had already been given to the word that was defined, unless the definition itself compelled one to do so. The obligation under s. 81 (1) of this Act was absolute. The appeal should be allowed with costs here and below.

The other noble and learned lords agreed in allowing the appeal. Appeal allowed.

APPEARANCES: *Kissen*, Q.C., and *A. M. G. Russell* (both of the Scottish Bar) (*O. H. Parsons*, for *Simpson & Marwick*, W.S., Edinburgh); *Hunter*, Q.C. (of the English Bar, Q.C. of the Scottish Bar), and *A. J. Mackenzie Stuart* (of the Scottish Bar) (*D. H. Haslam*, for *G. F. Grosset*, Edinburgh).

[Reported by F. H. COWPER, Esq., Barrister-at-Law] **[2 W.L.R. 313**

Court of Appeal

COMPANY: WINDING UP: LIABILITY OF PAST MEMBERS: VALIDITY OF CALL

***In re* Apex Film Distributors, Ltd.**

Lord Evershed, M.R., Romer and Sellers, L.JJ.

15th December, 1959

Appeal from Wynn Parry, J. ([1959] 3 W.L.R. 8; 103 SOL. J. 490).

In the compulsory winding up of a company the liquidator made a call on the present member of the company, the *A* contributory, and at the same time notified those members who had transferred their shares within the year preceding the winding up (the *B* contributories) that if the call was partially or wholly unproductive a call would be made on them. Nothing was received from the *A* contributory and the liquidator, being then satisfied that he was unable to contribute anything, wrote to the *B* contributories. After receipt of that notification, the *B* contributories purchased certain debts of the company which were owing before they had transferred their shares. On appeal from a decision of Wynn Parry, J., that their liability had not been reduced by the amount of the debts thus purchased, it was conceded that the later notification was not an effective call on the *B* contributories, but it was submitted that the first call which was admittedly effective against the *A* contributory was effective also as against the *B* contributories.

LORD EVERSHED, M.R., said that the call was not effective against the *B* contributories because at the date when it was made it did not, as required by s. 212 (1) (*c*) of the Companies Act, 1948, appear to the court that the existing *A* contributory was unable to satisfy the contributions, and further it was plain that the liquidator at that date did not himself consider that the letter sent to the *B* contributories amounted to a call. It was merely a warning that a call might be made if necessary. It had been conceded on the authority of *Brett's Case, Re Blakely Ordnance Co.* (1873), 8 Ch. App. 800, that the liability of the contributories might be reduced as a result of dealings up to the date of a call being made, and, as no effective call had been made on the *B* contributories, the extinguishment of the debts operated to reduce their liability.

ROMER and SELLERS, L.JJ., agreed. Appeal allowed.

APPEARANCES: *G. B. H. Dillon* (*Allen & Overy*); *K. W. MacKinnon*, Q.C., and *M. M. Wheeler* (*Linklaters & Paines*).

[Reported by Miss E. DANGERFIELD, Barrister-at-Law] **[2 W.L.R. 350**

PRACTICE: JURISDICTION TO RECALL WITNESS

Fallon *v.* Calvert

Hodson and Pearce, L.JJ. 18th December, 1959

Appeal from the Official Referee.

Reference was made by a judge to the Official Referee under R.S.C., Ord. 36A, r. 2, to hear and report on the gross earnings of the defendant over a period of five years. The Official Referee directed that the defendant should attend before him to assist in making the report. It was conceded on behalf of both the plaintiff and the defendant that the object of the order was that the defendant should be cross-examined, but the defendant contended that the Official Referee had no jurisdiction to make the order.

PEARCE, L.J., reading the judgment of the court, said that in a civil suit the function of a court in this country (unlike that of courts in some other countries) was to decide cases on the evidence that the parties thought fit to call before it. It was not inquisitorial. In *In re Enoch and Zaretzky* [1910] 1 K.B. 327, it was decided that a judge or umpire had no right to call a witness in a civil action without the consent of the parties. In the present case, however, the defendant had already given evidence, and the Official Referee was conducting what amounted to a continuation of the trial, which had not yet been concluded by a final judgment. In general, a judge had power to recall a witness who had given evidence, though he would not have had power to call him initially. On the face of it, under the words of r. 7 of Ord. 36A the judge's power to recall could be exercised by the Official Referee at this stage of the trial "in the like

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(*continued on p. xii*)

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(*continued on p. xiii*)

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manner and subject to the like limitations," unless that right of recall was in some way personal to the particular judge who had heard the defendant give evidence in the first place. They saw no reason why the right to recall should be regarded as the personal right of a particular judge rather than the right of the court which was properly seised of the matter at the time in question. They could not in such circumstances see that it would be a wrong use of discretion if the court were to recall him. They therefore dismissed the appeal.

APPEARANCES: *John G. Wilmers* (*Kenneth Brown, Baker, Baker*); *Frank Whitworth* (*J. H. Williams*, Dartford).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law] **[2 W.L.R. 346**

SHIPPING: CHARTER-PARTY: EXCEPTIONS CLAUSE: DELAY IN LOADING

South African Dispatch Line *v.* Panamanian s.s. *Niki* (Owners)

Hodson and Ormerod, L.JJ., and Gorman, J.

18th December, 1959

Appeal from Diplock, J. ([1959] 1 Q.B. 238).

A single voyage charter-party provided for shipment in four districts in the Coos Bay/British Columbia range, loading rotation to be at the charterers' option, a cargo of lumber and/or timber and/or wheat in bulk and/or lawful merchandise, excluding dangerous cargo. The charter-party contained an exceptions clause providing: ". . . Charterers shall not be responsible for any delay if the cargo intended for shipment under this charter-party cannot be provided, delivered, loaded or discharged by reason of . . . strikes . . . connected in any way with, or essential to the providing, delivery, loading or discharging of the cargo . . ." On 13th June, 1952, the charterers booked a cargo of lumber at Victoria, British Columbia, intending on that day to order the ship first to Vancouver to load wheat, thence to Victoria to load the lumber, and thereafter to two American ports to complete loading, but on 16th June a strike broke out which prevented the loading of lumber at all British Columbia ports. On 27th June, as the strike still continued, the charterers proposed to the owners a variation in the rotation and the loading of an alternative cargo of wheat if it proved impossible to load the lumber because of the strike and, as the owners agreed, the ship, instead of calling at Victoria to load the lumber, took on a further cargo of wheat at Vancouver, and sailed direct to Portland, Oregon, where she completed loading on 31st July. The owners would not agree to compensate the charterers for the cost of loading the alternative cargo and rearranging the rotation, as they contended that if the vessel had gone to Victoria to load the lumber, the laydays would have begun to run irrespective of the strike. The issue whether the owners would have been allowed to count time lost at Victoria because of the strike as laytime if the vessel had loaded the intended cargo was referred to arbitration, and the umpire, holding that the charterers would have been protected by the exceptions clause from responsibility for delay in loading caused by the strike, made his award in their favour. On appeal Diplock, J., gave judgment for the shipowners. The charterers appealed.

HODSON, L.J., said that the charterers' argument was that the strike prevented the intended cargo of lumber being loaded, so that the exceptions clause applied, and they were entitled to keep the ship waiting until the strike ended. But this was a fixed laytime charter-party, imposing on the charterers a duty to load and discharge in the fixed time subject to exceptions, and the contemplated cargo was not only lumber but any lawful merchandise. There was nothing in the exceptions clause exempting the charterers from the duty of looking for an alternative cargo, but they were entitled to a reasonable time to find such cargo. *Brightman & Co.* v. *Bunge y Born, Limitada Sociedad* [1924] 2 K.B. 619; [1925] A.C. 799, indicated that where a charter-party permitted the loading of a selection of different cargoes, the fact that the exceptions clause would excuse delay in the loading of one type did not excuse a failing to load an alternative type.

ORMEROD, L.J., and GORMAN, J., agreed. Appeal dismissed.

APPEARANCES: *Michael Kerr* (*Botterell & Roche*); *R. A. MacCrindle* (*Stokes & Mitcalfe*).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law] **[2 W.L.R. 294**

SOLICITOR: DISCIPLINARY COMMITTEE: SUSPENSION FROM PRACTICE

In re a Solicitor

Hodson, Ormerod and Pearce, L.JJ.

12th January, 1960

Appeal from the Queen's Bench Divisional Court.

A solicitor with a substantial practice employed an accountant to audit his books and prepare his accounts, and his clerk kept his office accounts. The solicitor kept a clients' account, but had in it from time to time substantial sums of his own money; and he drew out from that account from time to time moneys to advance to other clients. The yearly accounts showed that the clients' account was always in order, but because the books were not kept properly posted up by the clerk or properly audited and prepared for annual accounts, it would have been difficult at any particular moment to ascertain whether, when money was advanced to a client, there was in the account enough money belonging to the solicitor himself to make those advances. In August, 1959, the Disciplinary Committee made an order suspending the solicitor from practice for one year, having found proved allegations that he had failed to comply with the Solicitors' Accounts Rules and with certain provisions of the Solicitors Acts and the Accountant's Certificate Rules. On further allegations of conduct unbefitting a solicitor in that he had (*a*) utilised for the purposes of certain clients money held and received on behalf of other clients, and (*b*) utilised for his own purposes money held and received by him on behalf of clients, the committee stated that they did not consider it necessary to reach any finding; but they added: "The respondent's method of book-keeping and the state of his books make it almost impossible to establish now whether he was using his own money in client account or money belonging to other clients to finance" certain advances, and that "when he made the advances the respondent could certainly not have been sure of the position and must have acted recklessly." On appeals by the solicitor to the Queen's Bench Divisional Court and to the Court of Appeal, he contended that as a matter of law the committee ought to have made express findings on each allegation and that as they had not done so and as the form of their statement indicated that though they had made no findings on the allegations of conduct unbefitting a solicitor, they had them in mind in imposing so severe a sentence as suspension, their order was accordingly defective and should be altered by the appellate court.

ORMEROD, L.J., said that in view of the nature of the allegations on which no findings had been made it was only fair to say that at no stage was there any suggestion that this solicitor had acted dishonestly or that any client had been deprived of a penny. But the evidence did suggest a general practice with regard to clients' account carried on without any proper regard to the rules, which were made with the specific purpose of ensuring public confidence in the profession and required that there should always be kept a separate client account into which was paid clients' moneys only. In his lordship's view the duty of the committee to hear and determine the application did not as a matter of law involve

coming to a conclusion on every matter of complaint. But where the allegations on which there were no findings were so serious it was unfortunate that, if the committee were not satisfied that they were established, they had not said so. Nevertheless, even if they had found those allegations unsubstantiated they could still have complained of the solicitor's method of book-keeping and have concluded that he was behaving in a reckless fashion, and there was no error on their part. As to whether the court should interfere and substitute some less severe punishment such as a fine, it was well established that the court would not readily interfere with the findings or sentence of a disciplinary committee. Though his lordship could not help feeling a certain sympathy with this solicitor, who had relied on other people to attend to matters which should have had attention from himself, it was of the greatest importance that the public confidence in the profession should be maintained. That had been what The Law Society had had in mind when they considered the case. The appeal should be dismissed.

HODSON and PEARCE, L.JJ., agreed. Leave to appeal to the House of Lords was refused.

APPEARANCES: *John Lloyd-Eley* (*Stafford Clark & Co.*, for *Faber & Co.*, Birmingham); *L. G. Scarman*, Q.C., and *Douglas Lowe* (*Hempsons*).

[Reported by Miss M. M. HILL, Barrister-at-Law]

Court of Criminal Appeal

ROAD TRAFFIC: TAKING AND DRIVING AWAY A VEHICLE

R. *v.* Stally

Barry, Diplock and Salmon, JJ. 2nd October, 1959

Appeal against conviction.

During the night of 14th February, 1959, a motor-van was taken from outside a house without the owner's permission. In the early hours of the following morning the van was found; it had been used by the appellant and another man to make several journeys within the London district. Both men were charged on indictment with taking and driving away a motor vehicle without lawful authority, contrary to s. 28 (1) of the Road Traffic Act, 1930. The other man pleaded guilty; the appellant pleaded not guilty, his defence being that he was not present when the other man had taken the motor-van. In the summing up the jury were directed that they were entitled to find the appellant guilty of taking and driving away if they found that he had entered the vehicle some time after it had been taken, knowing that the driver had in fact taken it and driven it away without the owner's consent. The appellant was convicted.

BARRY, J., giving the judgment of the court, said that in directing the jury the deputy chairman indicated to them with complete accuracy that to find the appellant guilty of taking and driving away this car without the consent of the owner, it was unnecessary for the appellant to have been actually in the driving seat at any time and in control of the motor car; it would be sufficient if the two men had been acting in concert in relation to the taking of this motor car without the owner's consent. If the deputy chairman had made it clear that it was sufficient if the jury were satisfied that the appellant was a party to the taking in the sense that the taking had been a joint enterprise, even though he himself was not present when the vehicle was actually removed, no complaint could possibly have been made. The difficulty was that the deputy chairman indicated to the jury that they would be entitled to find the appellant guilty of this offence on the sole ground that he entered the vehicle some time after it had been taken, knowing that the driver of the vehicle had in fact taken it and driven it away without the consent of the owner. This amounted to a misdirection and in those circumstances the only possible course was to quash this conviction. Appeal allowed.

APPEARANCES: *Kevin Winstain* (*Registrar, Court of Criminal Appeal*); *R. D. Harman* (*Solicitor, Metropolitan Police*).

[Reported by Miss EIRA CARYL-THOMAS, Barrister-at-Law] [1 W.L.R. 70

CRIMINAL LAW: FORGERY: INTENT TO DEFRAUD
POWER OF COURT TO GRANT BAIL

R. *v.* Welham

Lord Parker, C.J., Hilbery, Cassels, Salmon and Edmund Davies, JJ. 16th, 21st December, 1959

Appeal against conviction.

The appellant was tried on an indictment which included two counts which charged him with uttering forged documents with intent to defraud, contrary to the Forgery Act, 1913, s. 4 (1), which provides: "Forgery of any document . . . if committed with intent to defraud, shall be a misdemeanour . . ." The appellant, as sales manager of Motors (Brighton), Ltd., had witnessed forged hire-purchase agreements on the strength of which certain finance companies had advanced large sums of money to Motors (Brighton), Ltd. The appellant's defence was that he had believed that the agreements were brought into being to enable the finance companies to lend money which they could not ordinarily do because of credit restrictions, and because by their memorandum and articles of association they could not act as moneylenders. He claimed that the purpose of the hire-purchase agreements was to make it appear that the finance companies were advancing money in the way of their business as finance companies, and he accordingly contended that he had had no intention to defraud the finance companies but was merely uttering the documents to mislead the relevant authority who might inspect the records to see that the credit restrictions were being observed and whose duty it was to prevent their contravention. The jury were directed that this was a sufficient intention to defraud and the appellant was convicted. He appealed on the ground that his intention was merely an intention to deceive and not an intention to defraud, which involved causing some economic loss to the person deceived.

HILBERY, J., reading the judgment of the court, said that it had been contended that the essential element in an intent to defraud was an intent to deprive the person deceived of something of value, whether money or a chattel, and thus the causing of some economic loss. The court had, however, come to the conclusion that this was too narrow a view. While, no doubt, in most cases of an intention to defraud the intention was to cause an economic loss, there was no reason to introduce any such limitation. Provided that the intention was to cause the person deceived to act to his real detriment, it mattered not that he suffered no economic loss. It was sufficient if the intention was to deprive him of a right or to induce him to do something contrary to what it would have been his duty to do had he not been deceived. Moreover, to hold otherwise would have involved holding that at least one case, *R.* v. *Bassey* (1931), 22 Cr. App. R. 160, was wrongly decided, and that the observations of Lord Tucker in his speech in the House of Lords in *Board of Trade* v. *Owen* (1957), 41 Cr. App. R. 11, at p. 40, were misconceived. Turning to the facts of this case, the admitted intent of the appellant was by deceit to induce such person as was charged with the duty of seeing that the credit restrictions were observed to act in a way in which he would not act if he knew the true facts. This the appellant was doing in order that he might benefit by getting further loans. In the judgment of the court the appellant was intending by deceit to induce the person deceived to act to his detriment, and thus was intending to defraud. Indeed, on the facts of the present case, it could be said that the appellant was intending by deceit to deprive the person deceived of the opportunity of

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(*continued on p. xv*)

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exercising a right, namely, a right to prosecute for breach of credit restrictions, thus depriving the community of the protection afforded by them. The appeal would be dismissed.

Hilbery, Gorman and Paull, JJ.
18th December, 1959

Application for bail.

On the dismissal of his appeal on 16th December, the appellant applied for the fiat of the Attorney-General to take his case to the House of Lords. Before the Attorney-General had decided whether to grant his fiat or not, the appellant applied for bail to another court of criminal appeal before the reasons for the dismissal of his appeal had been given.

HILBERY, J., said that the question that they had to determine was whether, while the application for the fiat was pending, the court had power to grant bail to the prisoner who was making that application for the fiat. The Criminal Appeal Act, 1907, s. 14, dealt with the admission of appellants to bail, and subs. (2) provided: "The Court of Criminal Appeal may, if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal." The question, therefore, narrowed itself in the circumstances of the present case into whether Welham was, in those circumstances, an appellant and had an appeal pending. In those circumstances, one had to look to see what was the definition of "appellant" given in the Criminal Appeal Act, 1907. In what was called the definition section, namely, s. 21, which was one of those sections which did not define but said what was to be included in an expression used in the Act, "the appellant" included "a person who had been convicted and desires to appeal under this Act." If they were to limit the right of an appellant whose appeal had been dismissed by the Court of Criminal Appeal to obtain bail during the period when he was applying for the fiat and the matter of granting the fiat was under consideration, if they were to say he was not within the definition of a person wishing to appeal, so that he became an appellant under the Act to whom bail might be granted, they would indeed be limiting the effect of that definition section. They would be saying that, in those circumstances, he was not an appellant until the fiat had been granted and there was an appeal pending in the House of Lords. That would be treating the person as an appellant who had an appeal actually in being. It was not giving full effect to the words of the definition, which went further than that, and said that a person was an appellant who desired to appeal under the Act. The application would be granted.

APPEARANCES: *C. W. G. Ross-Munro* (*Bellamy, Bestford & Co.*); *Sir Jocelyn Simon*, Q.C., S.-G., *J. H. Buzzard* and *M. D. L. Worsley* (*Director of Public Prosecutions*).

[Reported by A. D. RAWLEY, Esq., Barrister-at-Law] **[2 W.L.R. 333**

CRIMINAL LAW: EVIDENCE OF CO-ACCUSED: WARNING

R. *v.* Prater

Hilbery, Cassels and Edmund Davies, JJ.
21st December, 1959

Appeal against conviction.

The appellant was convicted at the Central Criminal Court on one count of conspiring to defraud and on five counts of uttering forged documents. He appealed against his conviction, one of the grounds of his appeal being that the evidence of his co-accused at the trial, Welham, who gave evidence on his own behalf, required to be corroborated, and that there should have been a warning given by the judge of the danger of convicting the appellant on the evidence of his co-accused.

EDMUND DAVIES, J., said that for the purposes of this present appeal, the court was content to accept that whether the label to be attached to Welham in this case was strictly that of an accomplice or not, in practice it was desirable that a warning should be given that the witness, whether he came from the dock, as in this case, or whether he was a Crown witness, might be a witness with some purpose of his own to serve. The court, in the circumstances of the present appeal, was content to found itself upon the view that it was desirable that in cases where a person might be regarded as having some purpose of his own to serve, the warning against uncorroborated evidence should be given. But every case must be looked at in the light of its own facts, and in *R. v. Garland* (1943), 29 Cr. App. R. 46*n.*, Humphreys, J., delivering the judgment of this court, used words which the court found completely apposite to the circumstances of the present case, namely, that it was clear that if there was clear and convincing evidence to such an extent that the court was satisfied that no miscarriage of justice had arisen by reason of the omission of the direction to the jury, the court would not interfere. On those grounds and bearing in mind also the proviso to s. 4 (1) of the Criminal Appeal Act, 1907, the court saw no reason to disturb the finding of the jury. The appeal would be dismissed.

APPEARANCES: *W. R. Fitch* (*Registrar, Court of Criminal Appeal*); *M. D. L. Worsley* (*Director of Public Prosecutions*).

[Reported by A. D. RAWLEY, Esq., Barrister-at-Law] **[2 W.L.R. 343**

CRIMINAL LAW: PRESSURE BY JUDGE ON JURY TO REACH SPEEDY VERDICT

R. *v.* McKenna and Busby

Cassels, Donovan and Ashworth, JJ. 15th January, 1960

Three appeals against conviction.

At the trial of three defendants, one of whom was charged with larceny, and the other two as accessories after the fact, the judge, after the jury had been considering their verdict for some two hours, ordered that they be brought back into court and said to them: "In ten minutes I shall leave this building and if, by that time, you have not arrived at a conclusion in this case you will have to be kept all night and we will resume this matter at quarter to twelve tomorrow." The jury retired again and six minutes later brought in verdicts of "guilty." The evidence against all the defendants was cogent and, on appeal, the prosecution, *inter alia*, invited the court to apply the proviso to s. 4 (1) of the Criminal Appeal Act, 1907.

CASSELS, J., reading the judgment of the court, said that it was a cardinal principle of our criminal law that in considering their verdict, concerning, as it did, the liberty of the subject, a jury should deliberate in complete freedom, uninfluenced by any promise, unintimidated by any threat. They still stood between the Crown and the subject and they were still one of the main defences of personal liberty. To say to such a tribunal in the course of its deliberations that it must reach a conclusion within ten minutes or else undergo hours of personal inconvenience and discomfort was a disservice to the cause of justice. It might well have been that the judge was understandably irritated by the inconvenient slowness of the jury in reaching a verdict in what he thought was a plain straightforward case, but the proper exercise of the judicial office required that such irritation must be suppressed: to experience it was understandable, to express it in the form of such a threat to the jury as was uttered here was insupportable. The court agreed that the evidence against all three defendants was cogent to a degree, and also that it was possible that the jury could have had little doubt about the guilt of two of them. But the opposite view could not, with complete confidence, be excluded; after two hours the jury had still not arrived at a unanimous verdict and, at the least, a reasonable inference was that what their minds concentrated upon during those last ten minutes was not so much the evidence they had to consider, but the inconvenience

and discomfort with which they had been threatened. That being so, the court did not think it right to resort to the proviso to s. 4 (1), and with regret felt bound to quash the convictions. Although any jury would have been amply justified in finding all three guilty, it was of fundamental importance that in their deliberations a jury should be free to take such time as they felt they needed, subject to the right of the trial judge to discharge them if protracted consideration still produced disagreement. Plain though many juries might have thought the case, the principle at stake was more important than the case itself. Appeal allowed.

APPEARANCES: *J. J. Deave*; *P. G. Hughes* (*Registrar, Court of Criminal Appeal*); *T. R. Fitzwalter Butler* and *D. M. Cowley* (*R. A. Young & Pearce*, Nottingham).

[Reported by Miss J. F. LAMB, Barrister-at-Law] [2 W.L.R. 306

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Absolute Privilege

Sir,—I should like to comment on the article "Absolute Privilege in Judicial Proceedings" published in your issue of 15th January, 1960 (p. 41).

I am in complete agreement with the author when he states that the law relating to absolute privilege as applying to tribunals other than recognised courts of law is unsatisfactory—decidedly unsatisfactory when one considers that the reputation of individuals may be irreparably harmed by reckless and malicious statements made before these tribunals, of which there are so many. It is to be deplored that so much uncertainty prevails about the scope of the immunity.

Because of this uncertainty it is regrettable that the author stresses status of the individual as an important factor which has guided the courts in determining the nature of a particular tribunal, viz., whether it is to be regarded as akin to a court of law so that absolute privilege shall attach to its proceedings. The decisions on the point, unfortunately, do not bear out this contention. (I think that the author himself realises this after he has examined the cases; his earlier enthusiasm for the touchstone of status has been somewhat dampened at the end of the article.)

The term status is capable of so many meanings that it affords little assistance in swathing through the confusion. Put at its broadest it merely connotes the personal legal condition of a person as opposed to the rest of society; almost any judicial, and even many administrative, decisions can effect status therefore, e.g., not being granted a licence for music and dancing (the *Royal Aquarium* case), or not being found suitable for compensation under the Workmen's Compensation Acts (*Smith* v. *National Meter Co., Ltd.* [1945] 1 K.B. 543). To argue casuistically that there must be a direct adjudication on the status of the individual rather than indirectly through the medium of a licence, in the first case, or a medical report, in the second, refines still further a very vague concept. On this basis a court of law, *stricto sensu*, deciding, say, a breach of contract action, will affect the status of the parties but only indirectly through the contract. This is just as much an attribute of a court of law as deciding directly that a man is, or is not, exempt from military service. So where does the test lead us?

Perhaps all that the author means by status is job, profession or merely livelihood. It is a pity that he did not say so. Judges have always, quite rightly, been on their guard against extra-judicial bodies exercising powers which could deprive or infringe the basic rights and liberties of the individual. This no doubt influenced Horridge, J., in the *Collins* case and Sankey, J., in the *Co-partnership* case—but, it is submitted, from reading the judgment, only in a minor way. Both judges, I believe, had come to their decision as to the nature of the tribunal based on an examination of its constitution, functions and procedure before clinching the matter by a reference to status. None of the other cases cited by the writer ever mention the word status, nor do they concern themselves with the effect on a person's profession or livelihood. In particular in those cases which, perhaps, might be said to touch the occupation of the plaintiff more than the others, this factor is never mentioned; not in *Dawkins* v. *Lord Rokeby* (army officer), not in *Barratt* v. *Kearns* (clergyman), not in *O'Connor* v. *Waldron* (a barrister).

It is vitally important that the scope of the immunity in relation to extra-judicial bodies be clarified, and defined more closely. Both the Report of the Committee on Administrative Tribunals and Enquiries (the Franks Committee), 1957 (Cmnd. 218), para. 82, and the Report of the Committee on the Law of Defamation (the Porter Committee), 1948 (Cmd. 7536), para. 94, had something to say on the topic; the former that absolute privilege should cover witnesses before administrative tribunals—at any rate if they are on oath (though why slanderous statements made by a person on oath should be treated more favourably than similar statements made by a person not on oath is a little difficult to understand), the latter that, as new administrative tribunals are created, their functions and methods of procedure should be so defined that one could ascertain the more easily whether they are similar to courts of justice (though it would be simpler, surely, if in the creating statute it were actually stated whether absolute privilege will apply).

Tentatively I suggest that the following factors ought to be amongst the most important to be considered in applying the privilege to an extra-judicial body:—

(1) Public policy—whether it is in the best interests of the public that it should be granted the immunity. One interest might well of course be whether the livelihood or professional reputation of a person is at stake.

(2) Its decision should be final and binding (subject to a right of appeal to a court of law) on the public as a whole, or on members of a profession, or on a class of persons most closely connected with the body.

(3) Its procedure should approximate, so far as practicable, to that of ordinary courts of law, particularly in the way evidence is taken, in its admissibility and in its influence on the eventual decision.

It is believed that the case of *Addis* v. *Crocker* [1959] 3 W.L.R. 527, is set down for appeal. One hopes that the Court of Appeal will take this opportunity to reformulate a confused branch of the law of privilege.

J. I. GREEN.

Manchester.

[*Our contributor writes*: The comments made by the learned author of this letter are welcomed. Although we are in disagreement over the importance played by the status of the individual in the *Collins* and the *Co-partnership* cases, we are in obvious agreement over the most important issue that the whole question of the nature of proceedings to which absolute privilege applies should be authoritatively pronounced upon by the Court of Appeal.

Perhaps my choice of the word status was unfortunate but I was modelling my language on that used by Horridge, J., in the *Collins* case. The ultimate paragraph in my article clearly states that this status is only one factor which may influence a court in its decision.

Any comments and criticisms on this most complex problem are always welcome and if my article has done nothing more than demand comment I feel that it has served its purpose.]

PUBLIC LECTURE

The UNIVERSITY OF LONDON announces a special university lecture in laws entitled "Prescription: an English Morass," by R. E. Megarry, Q.C., LL.D., at King's College, Strand, W.C.2, at 5 p.m. on Tuesday, 9th February. Admission will be free.

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Guildford.—MANN & CO., Est. 1891, 22 Epsom Road. Tel. 62911/2. Offices throughout West Surrey.

Guildford.—MESSENGER, MORGAN & MAY, Chartered Surveyors, 8 Quarry Street. Tel. 2992/4.

Haslemere.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 20 High Street. Tel. 1207.

Haslemere.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 4 and 1176.

Haslemere and Hindhead.—CUBITT & WEST. Tel. Haslemere 2345/6/7, Hindhead 63. Valuers, Surveyors, Estate Agents.

Kingston.—A. G. BONSOR, STEVENS & CO., Est. 1899, 82 Eden Street. Tel. KIN 0022.

Kingston.—NIGHTINGALE, PAGE & BENNETT, Est. 1825, Chartered Surveyors, 18 Eden Street. Tel. KIN 3356.

Kingston upon Thames and Area.—BENTALLS ESTATE OFFICES (L. J. Smith, F.A.L.P.A., P. F. Parkinson, B.Sc., A.A.L.P.A.), Wood St. KIN 1001. Sales, surveys, property and chattel valuations, lettings, management.

Leatherhead, Ashtead, Oxshott.—CHAS. OSENTON AND CO., Chartered Auctioneers, 36 North Street, Leatherhead. (Tel. 3001/2); Ashtead 2382, Oxshott 3344.

Mitcham.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, Upper Green. Tel. MITcham 6101/2.

Redhill and Merstham.—E. H. BENNETT & PARTNERS, Auctioneers and Valuers. Tel. Redhill 3672. Merstham 2234/5.

Reigate.—MARTEN & CARNABY, Surveyors, Auctioneers and Valuers, 23 Church Street. Tel. 3361/2.

Richmond.—ACLAND & CO., Estate Agents, Surveyors and Valuers. Rents collected. 27 Kew Road (Opposite Richmond Station). Tel. RIC 4811/2.

Richmond.—PENNINGTONS, 23 The Quadrant, Auctions, Valuations, Surveys. Rents collected. Tel. RIC 2255 (3 lines).

Sanderstead.—HOOKER & ROGERS, Railway Approach. Sanderstead. Manager, K. C. Fox, A.R.I.C.S. Tel. SAN 4414/5.

Surbiton.—E. W. WALLAKER & CO., F.A.L.P.A., Surveyors, Valuers, Auctioneers and Estate Agents, 56/7 Victoria Road, Surbiton, Surrey. Tel. Elmbridge 5381/4 and 4750, and at Chessington, Surrey, Shoreham-by-Sea and Lancing, Sussex. (Chartered Surveyor D. J. Peachey, F.R.I.C.S.)

Sutton.—DOUGLAS GRAHAM & CO., Estate Agents, Property Managers, 269 High Street. Tel. VIG 0026/7/8. And at Thornton Heath, Norbury and Piccadilly, W.1.

Sutton.—IDRIS JONES & PARTNERS, F.R.I.C.S., F.A.I., 22 The Arcade, Sutton. VIGilant 0182; and at 300 Abbey House, Westminster.

Thornton Heath.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, 781 London Road. Tel. THO 6211/2.

Thornton Heath.—DOUGLAS GRAHAM & CO., Estate Agents and Property Managers, 808 London Road. Tel. THO 3888 (4 lines). And at Norbury, Sutton and Piccadilly, W.1.

Virginia Water and Wentworth.—GOSLING AND MILNER, Station Approach, Virginia Water. Tel. Wentworth 2277. And at 8 Lower Grosvenor Place, S.W.1. Tel. Victoria 3634.

Wallington.—WILLIAM A. DAVIS & PARTNERS, 4 Stanley Park Road. Tel. Wallington 2567.

Walton.—MANN & CO. Est. 1891. 38 High Street. Tel. 2331/2. Offices throughout West Surrey.

Walton and Weybridge.—HIGBY & CHARD (Consultants: George Geen, M.A., F.R.I.C.S., V. C. Lawrence, F.R.I.C.S.), 45 High Street, Walton-on-Thames. Tel. 2487/8.

Walton/Weybridge.—WARING & CO. Est. 1890. Surveyors, Estate Agents, Auctioneers and Valuers. Tel. Walton-on-Thames 24151/2.

West Byfleet.—MANN & CO., incorporating Ewbank and Co. Est. 1891. Tel. 3288/9. Offices throughout West Surrey.

Weybridge.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 2323/5. Offices throughout West Surrey.

Weybridge and District.—J. E. PURDIE & SON, Chartered Surveyors and Estate Agents, 1 and 3 Queens Road, Weybridge. Tel. 3307 (3 lines), and at Walton-on-Thames.

Weybridge and District.—WATERER & SONS, Chartered Auctioneers and Estate Agents, Surveyors, etc. Tel. 3838/9.

(*continued on p. xvi*)

SURREY (*continued*)

Woking.—HOAR & SANDERSON incorporating C. BRIDGER & SONS. Est. 1856. Tel. 3263/4.

Woking.—MANN & CO., Est. 1891, Chartered Surveyors. Tel. 3800 (6 lines). Offices throughout West Surrey.

Woking.—MOLDRAM, CLARKE & EDGLEY, Chartered Surveyors. Tel. 3419; and at Guildford.

SUSSEX

Angmering-on-Sea, Rustington, Worthing and Storrington.—BERNARD TUCKER & SON. Est. 1890. L. B. Tucker, F.R.I.C.S., F.A.I., G. H. E. Evans, F.A.L.P.A., W. J. Brown, F.A.I. Tels. Rustington 1, Worthing 5708/9. Storrington 535.

Arundel and Rustington.—HEASMAN & PARTNERS. Tel. Arundel 2323, Rustington 900.

Bexhill-on-Sea.—JOHN BRAY & SONS (Est. 1864), Estate Agents, Auctioneers and Valuers, 1 Devonshire Square. Tel. 14.

Bexhill-on-Sea and Cooden.—ERNEST SHEATHER, F.A.I., Chartered Auctioneer and Estate Agent, 14 St. Leonards Road. Tel. 350, 351 and 2280.

Bexhill-on-Sea and Little Common.—RICHES & GRAY (Est. 1883), Chartered Auctioneers and Estate Agents, 25 Sea Road, Bexhill-on-Sea. Tel. 34/5. And at 25 Cooden Sea Road, Little Common. Tel. Cooden 2939.

Brighton.—RAYMOND BEAUMONT, F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 35 East Street. Tel. Brighton 20163.

Brighton.—MELLOR & MELLOR, Chartered Auctioneers and Estate Agents, 110 St. James's Street. Tel. 682910.

Brighton.—H. D. S. STILES & CO., F.R.I.C.S., F.A.I. (special rating diploma), 6 Pavilion Buildings. Tel. Brighton 23244 (4 lines). 10 King's Bench Walk, Temple E.C.4. Tel. Central 5356. 3 The Steyne, Worthing. Tel. Worthing 9192/3.

Brighton.—FRANK STONE & PARTNERS, F.A.L.P.A., 84 Queen's Road. Tel. Brighton 29252/3.

Brighton and Hove.—WILLIAM WILLETT, LTD., Auctioneers and Estate Agents, 52 Church Road, Hove. Tel. Hove 34055. London Office, Sloane Square, S.W.1. Tel. Sloane 8141.

Brighton, Hove and Surrounding Districts.—MAURICE P. HATCHWELL, F.R.I.C.S., F.A.I., Chartered Surveyor, Chartered Auctioneer and Estate Agent, 4 Bartholomews, Brighton, 1. Tel. Brighton 23107.

Brighton and Hove and Surrounding Districts.—C. HORTON LEDGER, F.A.I., Established 1885. Chartered Auctioneer and Estate Agent, Surveyor and Valuer, "Sussex House," 126/7 Western Road, Hove, Sussex. Tel. 71291.

Chichester and Bognor Regis.—WHITEHEAD & WHITEHEAD, Chartered Auctioneers and Estate Agents, South Street, Chichester. Tel. 3031 (5 lines). Station Road, Bognor Regis. Tel. 2237/8.

Crawley.—JOHN CHURCHMAN & SONS, Chartered Surveyors, Valuers, Land Agents. Tel. Crawley 1899.

Crawley.—WM. WOOD, SON & GARDNER, Surveyors and Valuers. Tel. Crawley 1.

Crowborough.—DONALD BEALE & CO., Auctioneers, Surveyors and Valuers. The Broadway. Tel. Crowborough 3333.

Eastbourne.—FRANK H. BUDD, LTD., Auctioneers, Surveyors, Valuers, 1 Bolton Road. Tel. 1860.

Eastbourne.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, Estate Offices, Friston Hill, East Dean, Nr. Eastbourne. Tel. East Dean 2277.

Eastbourne.—HEFFORD & HOLMES, F.A.I., Chartered Auctioneers and Estate Agents, 51 Gildredge Road. Tel. Eastbourne 7840.

Eastbourne.—OAKDEN & CO., Estate Agents, Auctioneers and Valuers, 24 Cornfield Road. Est. 1897. Tel. 1234/5.

Eastbourne and District.—FARNHAM & CO., Auctioneers, Estate Agents and Valuers, 6 Terminus Road, Eastbourne. Tel. 4433/4/5. Branch at 87 Eastbourne Road, Lower Willingdon, and 4 Grand Parade, Polegate.

East Grinstead.—Messrs. P. J. MAY (P. J. May and A. L. Apthorp, F.R.I.C.S., F.A.I., M.R.San.I.), 2 London Road. Tel. East Grinstead 315/6.

East Grinstead.—TURNER, RUDGE & TURNER, Chartered Surveyors. Tel. East Grinstead 700/1.

Hassocks and Mid-Sussex.—AYLING & STRUDWICK, Chartered Surveyors. Tel. Hassocks 882/3.

Hastings, St. Leonards and East Sussex.—DYER & OVERTON (H. B. Dyer, D.S.O., F.R.I.C.S., F.A.I.; F. R. Hynard, A.R.I.C.S.), Consultant Chartered Surveyors. Estd. 1892. 6-7 Havelock Road, Hastings. Tel. 5661/2.

Hastings, St. Leonards and East Sussex.—WEST (Godfrey, F.R.I.C.S., F.A.I.) & HICKMAN, Surveyors and Valuers, 50 Havelock Road, Hastings. Tel. 6688/9.

Haywards Heath and District.—DAY & SONS, Auctioneers and Surveyors, 115 South Road. Tel. 1580. And at Brighton and Hove.

Haywards Heath and Mid-Sussex.—BRADLEY AND VAUGHAN, Chartered Auctioneers and Estate Agents. Tel. 91.

Horsham.—KING & CHASEMORE, Chartered Surveyors, Auctioneers, Valuers, Land and Estate Agents. Tel. Horsham 3355 (3 lines).

Horsham.—WELLER & CO., Surveyors, Auctioneers, Valuers, Estate Agents. Tel. Horsham 3311. And at Guildford, Cranleigh and Henfield.

REGISTER OF

Auctioneers, Valuers, Surveyors, Land and Estate Agents

SUSSEX (*continued*)

Hove.—DAVID E. DOWLING, F.A.L.P.A., Auctioneer, Surveyor, Valuer & Estate Agent. 75, Church Road, Hove. Tel. Hove 37213 (3 lines).
Hove.—PARSONS SON & BASLEY (W. R. De Silva, F.R.I.C.S., F.A.I.), 173 Church Road, Hove. Tel. 34564.
Hove and District.—WHITLOCK & HEAPS, Incorporated Auctioneers, Estate Agents, Surveyors and Valuers, 65 Sackville Road. Tel. Hove 31822.
Hove, Portslade, Southwick.—DEACON & CO., 11 Station Road, Portslade. Tel. Hove 48440.
Lancing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.
Lewes and Mid-Sussex.—CLIFFORD DANN, B.Sc., F.R.I.C.S., F.A.I., Fitzroy House, Lewes. Tel. 750. And at Ditchling and Hurstpierpoint.
Seaford.—W. G. F. SWAYNE, F.A.I., Chartered Auctioneer and Estate Agent, Surveyor and Valuer, 3 Clinton Place. Tel. 2144.
Storrington, Pulborough and Billinghurst.—WHITEHEAD & WHITEHEAD amal. with D. Ross & Son, The Square, Storrington (Tel. 40), Swan Corner, Pulborough (Tel. 232/3), High Street, Billinghurst (Tel. 391).
Sussex and Adjoining Counties.—JARVIS & CO., Haywards Heath. Tel. 700 (3 lines).
West Worthing and Goring-by-Sea.—GLOVER & CARTER, F.A.L.P.A., 110 George V Avenue, West Worthing. Tel. 8686/7. And at 6 Montague Place, Worthing. Tel. 6264/5.
Worthing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.
Worthing.—EYDMANN, STREET & BRIDGE (Est. 1864), 14 Chapel Road. Tel. 4060.
Worthing.—HAWKER & CO., Chartered Surveyors, Chapel Road, Worthing. Tel. Worthing 1136 and 1137.
Worthing.—Patching & Co., Est. over a century. Tel. 5000. 5 Chapel Road.
Worthing.—JOHN D. SYMONDS & CO., Chartered Surveyors, Revenue Buildings, Chapel Road. Tel. Worthing 623/4.

WARWICKSHIRE

Birmingham and District.—SHAW, GILBERT & CO., F.A.I., "Newton Chambers," 43 Cannon Street, Birmingham, 2 Midland 4784 (4 lines).

WARWICKSHIRE (*continued*)

Coventry.—GEORGE LOVEITT & SONS (Est. 1843), Auctioneers, Valuers and Estate Agents, 29 Warwick Row. Tel. 3081/2/3/4.
Coventry.—CHAS. B. ODELL & CO. (Est. 1901) Auctioneers, Surveyors, Valuers and Estate Agents, 53 Hertford Street. Tel. 22037 (4 lines).
Leamington Spa and District.—TRUSLOVE & HARRIS, Auctioneers, Valuers, Surveyors. Head Office: 38/40 Warwick Street, Leamington Spa. Tel. 1861 (2 lines).
Rugby and District.—WIGGINS & RUSSELL, Auctioneers, etc., 14 Regent Place, Rugby (Tel. 2548).
Sutton Coldfield.—QUANTRILL SMITH & CO., 4 and 6 High Street. Tel. SUT 4481 (5 lines).

WESTMORLAND

Kendal.—MICHAEL C. L. HODGSON, Auctioneers and Valuers, 10a Highgate. Tel. 1375.
Windermere.—PROCTER & BIRKBECK (Est. 1841), Auctioneers, Lake Road. Tel. 688.

WILTSHIRE

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department. New Bond Street Chambers. 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.
Marlborough Area (Wilts, Berks and Hants Borders).—JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers, Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2. And at Ashby-de-la-Zouch, Burton-on-Trent and Derby

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.
Worcester.—BENTLEY, HOBBS & MYTTON, F.A.I., Chartered Auctioneers, etc., 49 Foregate Street, Tel. 5194/5.

YORKSHIRE

Bradford.—NORMAN R. GEE & PARTNERS, F.A.I., 72/74 Market Street, Chartered Auctioneers and Estate Agents. Tel. 27202 (2 lines). And at Keighley.

YORKSHIRE (*continued*)

Bradford.—DAVID WATERHOUSE & NEPHEWS, F.A.I., Britannia House, Chartered Auctioneers and Estate Agents. Est. 1844. Tel. 22622 (3 lines).
Hull.—EXLEY & SON, F.A.L.P.A. (Incorporating Officer and Field), Valuers, Estate Agents, 70 George Street. Tel. 33991/2.
Leeds.—SPENCER, SON & GILPIN, Chartered Surveyor, 2 Wormald Row, Leeds, 2. Tel. 3-0171/2.
Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.
Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

SOUTH WALES

Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street. Tel. 30429.
Cardiff.—S. HERN & CRABTREE, Auctioneers and Valuers. Established over a century. 93 St. Mary Street. Tel. 29383.
Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.
Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.
Swansea.—E. NOEL HUSBANDS, F.A.I., 139 Walter Road. Tel. 57801.
Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

NORTH WALES

Denbighshire and Flintshire.—HARPER WEBB & CO. (incorporating W. H. Nightingale & Son), Chartered Surveyors, 35 White Friars, Chester. Tel. 20685.
Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3483/4.
Wrexham, North Wales and Ellesmere, Shropshire.—WINGETT & SON, Chester Street, Wrexham. Tel. 2050.

REVIEWS

Oyez Practice Notes No. 45 : Slum Clearance and Compensation. By J. F. GARNER, LL.M., Solicitor. pp. (with Index) 76. 1960. London : The Solicitors' Law Stationery Society, Ltd. 10s. 6d. net.

This is another subject well suited to the treatment typical of this series of notes. The law can be ascertained from larger text-books (such as that on Housing Law and Practice of which Mr. Garner is joint author) or even, with much difficulty, directly from the statutes and reports, but a short booklet saves a great deal of time. Few solicitors are concerned with housing problems other than those which arise when houses belonging to clients are threatened by slum clearance and these notes provide the guidance which is required on the powers of local authorities, the procedure, and (what is now most complicated) the various classes of compensation.

A number of tests have shown that the text is complete and accurate. We would suggest, however, that in a further edition the summary of compensation payments (p. 59) might be printed in a more prominent position. Perhaps some further explanation of the test of unfitness of a house might also be given. Unless recent changes in the statutory definition are borne in mind very wrong conclusions may be drawn from *Summers* v. *Salford Corporation* (p. 14). Another point of wording on which we have some doubt is the statement (at p. 50) that " the existing use is therefore still the basis of compensation." If notice to treat is served at the present time, is it correct to treat existing use value as the general rule (p. 48) and the assumptions of the Town and Country Planning Act, 1959, as exceptions ? The provisions of the Town and Country Planning Act, 1947, s. 51, which require compensation to be assessed on the " existing use " basis were repealed by s. 1 (1) of the 1959 Act as regards notices served after 29th October, 1958.

Elements of English Law. Sixth Edition. By WILLIAM GELDART. Revised by Sir WILLIAM HOLDSWORTH and H. G. HANBURY, D.C.L. 1959. London : Oxford University Press. 7s. 6d. net.

Many changes in the law have been made since the last edition of this book was published. Important statutes which have been taken into account in the new edition include the Law Reform (Limitation of Actions, etc.) Act, 1954 ; Law Reform (Enforcement of Contracts) Act, 1954 ; Road Traffic Act, 1956 ; Restrictive Trade Practices Act, 1956 ; Homicide Act, 1957 ; Occupiers' Liability Act, 1957 ; and the Variation of Trusts Act, 1958.

This book is not intended for lawyers alone and most intelligent laymen will find the elements of English law easy to follow and understand because the chapters have been written clearly and simply in a very small space, and are interesting and enlightening. All the chapters, covering statute and common law ; common law and equity ; probate, divorce and admiralty ; persons and personal relations ; probate ; contracts ; torts ; and crimes, are complete in themselves. This enables the reader to choose his subject without having to delve elsewhere for background on that upon which he wishes to be enlightened.

Show Me a Lawyer. By PETER BRYAN. pp. 223. London: Michael Joseph, Ltd. 15s. net.

This novel tells a tale, a tale of the experiences of a young assistant solicitor, while he worked first with a one-man firm, the one man unfortunately often being the worse for drin', and next with a firm which, although old-established, again only possessed one principal. This is very much a work of fiction. For instance, its young hero was unable to resist kissing in the office a client some ten years his senior who sought a divorce; again, on more than one occasion he was found in a compromising situation with a typist. Many members of the public already possess strange ideas about the methods of work and types of personality to be found in the legal profession. Although they may derive some hours of entertainment from this book, they will hardly be greatly enlightened; unfortunately some readers may be misled into thinking that the incidents described are typical of the legal way of life.

BOOKS RECEIVED

The French Constitution of October 4th, 1958. By WILLIAM PICKLES. pp. iii and (with Index) 52. 1960. Stevens & Sons, Ltd. 6s. 6d. net.

Income Tax: Maintenance Relief and Agricultural Allowances. Second Edition. By F. E. CUTLER JONES, B.A. pp. xx and (with Index) 282. 1960. London: Sweet & Maxwell, Ltd. £1 12s. 6d.

Joseph Story. A collection of writings by and about an eminent American jurist. Selected and edited by MORTIMER D. SCHWARTZ and JOHN C. HOGAN. pp. (with Index) 228. 1959. New York: Oceana Publications, Inc. $5.00

POINTS IN PRACTICE

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the " Points in Practice " Department, The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. They should be* brief, typewritten in duplicate,** *and accompanied by the name and address of the sender* on a separate sheet, *together with a* stamped addressed envelope. ***Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all.

Compulsory Purchase—WHETHER COMPENSATION CALCULABLE AT DATE OF NOTICE TO TREAT

Q. The late owner of certain premises was served with a notice to treat on behalf of a metropolitan borough council in July, 1951, in respect of the proposed compulsory acquisition by the council of the forecourt to the premises. The occupant did not, in fact, complete the claim forms but the matter subsequently came into the hands of the managing agents for attention. Our client, having acquired the property a few months ago, proceeded immediately to let the same for a term of twenty-one years, the premises comprised in the lease being described as " the shop and premises known as — in the County of London together with the appurtenances belonging." The metropolitan borough council is now proceeding on the notice to treat and, on our client's instructions, the managing agents have settled the claim for compensation in a certain sum, but a point which arises for consideration is whether the recent letting of the premises by our client included the forecourt. If so, we wonder whether the new lessees might not have a claim to part of the compensation money. On the other hand, it is no doubt arguable that the compensation should be calculated as at the date of the notice to treat, which, of course, was long before the lessees took possession. Can you advise us : (*a*) whether the reference to " appurtenances " in the lease is likely to include the forecourt, and (*b*) whether, if this is so, the lessees could have some claim on the agreed compensation moneys ?

A. (*a*) The general rule is that the word " appurtenances " does not add to the extent of property demised. Nevertheless, we consider that the forecourt to a shop, prima facie, is included within the demised premises. (*b*) We think not. After service of a notice to treat the owner cannot increase the burden of compensation by creating any new interest. Any interest which is thereafter acquired is subject to the rights of the authority who served the notice. The persons who are to be served, and the interests in respect of which they are served, are fixed at the date of service of the notice to treat. The wording of the Lands Clauses Consolidation Act, 1845, s. 18 (which Act applies to almost all compulsory purchase orders), implies that the interests in respect of which compensation is to be paid are those existing at the date of service of the notice to treat.

NOTES AND NEWS

PLANS ON LAND REGISTRY INSTRUMENTS

The Chief Land Registrar wishes to remind solicitors of the need for plans drawn on or attached to instruments which affect registered land to be signed, or where a corporation is a party to them, sealed. Thus when a transfer of part of the land in a title uses a plan, that plan must, by virtue of r. 98 of the Land Registration Rules, 1925, and Form 20 in the Schedule to those rules, be signed by the transferor and by or on behalf of the transferee. The plan drawn on a lease of part, or on a deed which grants a rent-charge issuing out of part of the land in a title, must be signed similarly (r. 113) and so, too, must the plan on a charge of part, a discharge of part, or any other instrument which deals with part of the land comprised in a title (r. 79). A plan may be signed on behalf of a transferee, lessee, chargee or other grantee by his solicitor, who should describe himself as such. When, under these provisions, a company incorporated under the Companies Acts is required to "sign" a plan, it has no signature, so that its authorised officers should affix the seal to the plan and themselves sign it in accordance with the provisions of the company's articles, because that method of execution is for all contracting purposes the same thing as the signature of an individual (*Dartford Union Guardians* v. *Trickett & Sons* (1889), 59 L.T. 754, 759).

LORD EVERSHED TOURS CEYLON AND INDIA

Lord Evershed, M.R., chairman of the British Council's Law Advisory Committee, left on Saturday, 30th January, on a tour of Ceylon and India arranged by the Council. He was accompanied by Lady Evershed, and they will be the guests of the Ceylon Government. The Master of the Rolls will give an address to the Ceylon Judicial Services Association and carry out a programme of visits in Colombo and to provincial centres.

Honours and Appointments

Mr. HENRY MAURICE COMLEY, solicitor, has been appointed Deputy Magistrates' Clerk by Walsall Magistrates.

Mr. HARRY CROSSLEY, solicitor, of Derby, has been appointed Deputy Clerk to the Derby City Council.

Mr. FREDERICK PETRE CROWDER, barrister-at-law, has been appointed Recorder of the Borough of Gravesend.

Mr. GEOFFREY DAWSON LANE, A.F.C., barrister-at-law, has been appointed Deputy Chairman of the Court of Quarter Sessions for the County of Bedford.

Mr. HELENUS PATRICK JOSEPH MILMO, barrister-at-law, has been appointed Deputy Chairman of the Court of Quarter Sessions for the County of West Sussex.

Mr. A. H. M. SMYTH, solicitor, of Wolverhampton, who has held the post of Deputy Town Clerk of Wolverhampton since 1956, has been appointed one of the two Deputy Clerks to Hampshire County Council.

Personal Notes

Mr. W. E. BLAKENEY, solicitor, of Plymouth, has a painting of a magnolia on exhibition at the Royal Institute Gallery, Piccadilly, London.

Mr. G. W. WESTON, solicitor, of Kidderminster, has recently become a partner in the firm of Messrs. Weston, Fisher & Weston, solicitors, of Kidderminster. The firm maintains a family tradition with this member of the third generation becoming a partner.

Societies

Sir Sydney Littlewood, president of THE LAW SOCIETY, gave a luncheon party on 25th January at 60 Carey Street, W.C. The guests were: the Polish Ambassador; Lord Justice Hodson; Mr. John Boyd-Carpenter, M.P.; Sir Leslie Farrer; Mr. W. G. Agnew; Mr. J. W. Ridsdale; Mr. G. F. Pitt-Lewis; Mr. B. E. Toland; and Sir Thomas Lund.

The UNITED LAW DEBATING SOCIETY announces the following programme: 8th February, Debate—"This House would welcome the introduction of a capital gains tax"; 15th February, Combined debate with the British Council Debating Society—"This House believes that television is the thief of time"; 22nd February, Debate—"This House believes that the People's Republic of China should be recognised by the Government of the U.S.A."; and 29th February, Debate—"This House believes that the law of husband and wife is unfair and unjust." All meetings are held in Gray's Inn Common Room at 7.15 p.m.

The next quarterly meeting of the LAWYERS CHRISTIAN FELLOWSHIP will be held at The Law Society's Hall, Bell Yard, W.C.2, on Thursday, 18th February, at 6.30 p.m. Tea will be available from 5.30 p.m. The meeting, to which all lawyers, law students and visitors are warmly welcomed, will be addressed by Canon T. R. Milford, Master of the Temple, on "Praying and Caring."

Obituary

Mr. PETER ORMEROD ASHWORTH, solicitor, of Leeds, died on 25th January, aged 75. He was admitted in 1911.

Mr. ERNEST WARD DAWKINS, solicitor, of Birmingham, died on 27th January, aged 69. He was admitted in 1922.

Mr. JOHN FRANK GREGG, solicitor, and Town Clerk of Birmingham, died on 23rd January, aged 47. He was admitted in 1935. In June last year he was elected president of the Society of Town Clerks.

Sir LIONEL LEACH, P.C., Q.C., died on 26th January, aged 76. He was called to the Bar in 1907. Sir Lionel, during his long career, had administered justice from many varied angles. He was a judge of the High Court, Rangoon, 1933; Chief Justice of Madras, 1937–47; an Official Referee, Supreme Court of Judicature, 1948–56; and a Privy Councillor since 1949.

Mr. ARTHUR A. PRICE, managing clerk with Messrs. Gabb, Price and Fisher, solicitors, of Abergavenny, for sixty-five years, died on 28th January, aged 83.

Wills and Bequests

Mr. R. G. FORD, solicitor, of Nottingham, left £24,813 net.

Mr. G. A. L. HATTON, solicitor, of Great Malvern, left £32,008 net.

PRACTICE DIRECTION

PROBATE, DIVORCE AND ADMIRALTY DIVISION

COSTS, PROBATE AND DIVORCE

Bills drawn for taxation under Appendix 2 to the Supreme Court Costs Rules should show the item number in the appendix under which each item of the bill is charged.

B. LONG,
Senior Registrar.

22nd January, 1960.

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertising Offices: Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. Telephone: CHAncery 6855.

Annual Subscription: Inland £4 10s., Overseas £5 (payable yearly, half-yearly or quarterly in advance).

Classified Advertisements must be received by first post Wednesday.

Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).

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PUBLIC NOTICES

THE UNIVERSITY OF MANCHESTER

Applications are invited for the full-time post of LECTURER or ASSISTANT LECTURER in the Faculty of LAW. Salary scales per annum: Lecturer, £900 to £1,650, initial salary according to qualifications and experience (including experience as a practising barrister or solicitor); Assistant Lecturer £700 to £850. Membership of F.S.S.U. and Children's Allowance Scheme. Applications should be sent not later than February 15th, 1960, to the Registrar, the University, Manchester 13, from whom further particulars and forms of application may be obtained.

BERKSHIRE COUNTY COUNCIL

ASSISTANT SOLICITOR

Applications are invited for the post of ASSISTANT SOLICITOR.

Salary J.N.C. Scale A (£1,210–£1,390). Previous local government experience essential.

Further particulars and application forms from the Clerk of the Council, Shire Hall, Reading.

Closing date: 20th February, 1960.

BOROUGH OF KING'S LYNN

LAW CLERK

LAW CLERK required with experience of Conveyancing. Salary £610–£765 per annum, according to experience. Post superannuable. Applications with names and addresses of 2 referees, to be delivered to the undersigned by 15th February, 1960.

E. W. GOCHER,
Town Clerk.

Town Hall,
King's Lynn.

COUNTY OF ESSEX

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Salary according to qualifications and experience of persons appointed, but will not exceed for post (1) £880 a year and for post (2) £765 a year. Office hours at the rate of 38 a week; 5-day week; sick pay; superannuation; canteen; holiday, for post (1) 18 working days and for post (2) 15 working days, plus, in each case, 3 days after 10 years' service.

Canvassing forbidden. Applications in own handwriting, stating post applied for, age, education, qualifications, experience and names and addresses of three referees, should be sent as soon as possible to County Clerk, County Hall, Chelmsford.

HOLBORN BOROUGH COUNCIL

Assistant Solicitor required with several years qualified experience, including advocacy. Salary J.N.C. Scale "C" (£1,385–£1,620).

Applications stating age, qualifications, experience and names of two referees to Town Clerk, Town Hall, Holborn, W.C.1, by 26th February, 1960.

THE ROYAL BOROUGH OF KENSINGTON

JUNIOR ASSISTANT SOLICITOR required. Salary within scale £1,085–£1,250 p.a., according to experience. Applicants must be competent advocates but previous local government experience not essential. Appointment superannuable, subject to medical examination and one month's notice to terminate. Applications stating age, qualifications with dates, experience, etc., with names of two referees to reach Town Clerk, Town Hall, Kensington, W.8., by 13th February, 1960.

MIDDLESEX MAGISTRATES' COURTS COMMITTEE

MALE SENIOR CLERK (whole-time) for Justices' Clerk's Office, Willesden. Experience in keeping all magisterial accounts, issuing process, general office duties and as Court Clerk essential. Salary Grade "A" (£660 to £760 per annum, plus London weighting). Grading under review. Pensionable. Full particulars and two referees to the Clerk to the Committee (C/MC), Guildhall, Westminster, S.W.1, by 20th February, 1960. (Quote B. 913 S.J.)

COUNTY BOROUGH OF DUDLEY

APPOINTMENT OF CLERK TO THE JUSTICES

Applications are invited for this full-time appointment from barristers and solicitors qualified under the Justices of the Peace Act, 1949, s. 20, and should be sent to the Clerk of the Magistrates' Courts Committee, Town Hall, Dudley, Worcs., to arrive not later than 20th February, 1960. The salary will be within the scale commencing at £1,665 p.a. and rising by five annual increments to £2,000 p.a., and the initial salary payable to the person appointed may be above the minimum at the discretion of the Committee. Staff, accommodation and office equipment are provided by the Committee and entry into the superannuation scheme is subject to passing a medical examination.

Applicants should state their qualifications under s. 20, age and experience and give the names of two referees. In view of the threat of a rail strike, all applicants should also give their own and their referees' telephone numbers.

BOROUGH OF MARGATE

SECOND ASSISTANT SOLICITOR

Applications are invited for this appointment. Salary in accordance with N.J.C. Scale for Assistant Solicitors (£835–£1,165). Applications will be accepted from persons taking The Law Society's March Final Examination.

The duties will provide excellent opportunities to gain all-round experience, including some advocacy, with good prospects for promotion.

Housing accommodation will be provided if required, and consideration given to a contribution towards removal expenses.

Applications, stating age, qualifications and experience, together with the names of two referees, to reach the undersigned by 15th February, 1960.

T. F. SIDNELL,
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Margate.

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COMPETENT Conveyancing Managing Clerk, admitted or unadmitted, required for Wimbledon firm. Please state age and experience. Minimum salary £1,000 per annum.—Box 6135, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

REIGATE-SURREY.—Old-established firm require immediately Managing Clerk for Conveyancing and Probate; please write stating age, qualifications, experience and salary required.—Box 6207, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

REIGATE, SURREY.—Old-established firm require immediately Assistant Solicitor for general work but principally Conveyancing and Probate; please write stating age, qualifications, experience and salary required.—Box 6208, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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SOLICITORS (City) require experienced Trust and Probate Clerk. No Sats. 4 weeks holiday per annum. Salary according to age and experiece.—Write Box 135, Reynell's, 44, Chancery Lane, W.C.2.

MANSFIELD.—Assistant Solicitor required for General Practice. Box 6316. Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

continued on p. xviii

★ Classified Advertisements ★

continued from p. xvii

APPOINTMENTS VACANT—*continued*

NORTH SOMERSET solicitors with expanding country practice require recently admitted solicitor wishing to gain wide experience.—Box 6313, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor with several years' experience in Conveyancing and Probate, capable of working with slight supervision, required by Bedfordshire Solicitors. Salary £750 or according to experience and ability. Pension Scheme.—Box 6312, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOMERSET Solicitors: vacancy for recently admitted lady solicitor in a busy country practice. Apply stating age, experience and salary required.—Box 6314, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EAST HANTS.—Wanted (A) young Conveyancing and Probate Assistant (unadmitted) and (B) young Cashier and Costs Clerk (male or female). Good prospects. Apply in own handwriting stating age, experience and salary required.—Box 6315, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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SHEFFIELD solicitor requires Assistant Solicitor or Unadmitted Managing Clerk with conveyancing and probate experience for small but expanding practice. Write stating experience, age and salary required.—Box 6323, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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BRIGHTON Solicitors require Conveyancing and Probate Clerk, capable of working with minimum supervision. Permanent post; salary £800 to £1,000, according to ability. Write stating age, experience, etc.—Box 6327, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITORS (Brighton) require an Assistant Solicitor for general family practice. A good opportunity for a keen young Solicitor; write stating age, experience and salary required.—Box 6328, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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CITY (E.C.3) Solicitors (near Fenchurch Street) require unadmitted clerk for general (mainly common law and divorce) practice. Supervision will be given but an excellent opportunity for a younger man for advancement. Salary by arrangement.—Box 6331, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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continued on p. six

Classified Advertisements

continued from p. xviii

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INFORMATION REQUIRED

CHARLES HENRY WEIR, Deceased

Will any Solicitor or other person who has any knowledge of the next-of-kin of the abovenamed, who died on the 22nd October, 1899, and who was a Merchant of 53 New Broad Street, in the City of London, and also of 5 Warrington Crescent, Paddington, W.2, please communicate with Thomas Eggar & Son, Solicitors of 9 Old Steyne, Brighton, Sussex.

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Commonwealth and Continental Church Society,
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The Adelphi, London, W.C.2

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